

Chapter 109
ENVIRONMENT AND NATURAL RESOURCES
ARTICLE IV. WATERSHED PROTECTION

Sec. 109-83. Purpose and Intent.

- A. A Watershed is an area of land that drains rain water or snow into one location, such as a stream, lake, or wetland. These water bodies supply our drinking water, water for agriculture and manufacturing, offer opportunities for recreation, and provide habitat to plants and animals.
- B. These regulations aim to establish the protection of drinking water supply watersheds. This protection is necessary for enhancing public health, safety, and welfare and ensuring that surface drinking water sources are of high quality to be treated to meet all State and Federal drinking water standards.
- C. Under O.C.G.A. § 12-2-8, these regulations establish criteria to allow the development of a water supply watershed without contaminating the water source to a point where it cannot be treated to meet drinking water standards. These criteria accomplish this by establishing buffer zones around streams and specifying allowable impervious surface densities within watersheds. The requirements also include the protection of water supply reservoirs by buffer zones and management practices to be established by reservoir owners and approved by the Department of Natural Resources (DNR).
- D. The watershed protection districts intend to protect the environmental quality of Dawson County's drinking water supply watersheds.
- E. The provisions of this article are adopted pursuant to the rules for the Environmental Planning Criteria of the Georgia Department of Natural Resources as adopted by DNR under O.C.G.A. 12-2-8

Sec. 109-84. Definitions.

Aquifer. Any stratum or zone of rock beneath the earth's surface capable of containing or producing water from a well.

Buffer. A natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas.

Buffer, planted. A buffer area that is cleared in the construction process and has specified vegetation purposely replanted for environmental protection and from encroachment of conflicting uses.

Buffer, undisturbed. An undisturbed buffer that is left in a natural state or augmented with plantings to achieve the goal of buffering.

Buffer area, natural vegetative. A river corridor containing the flora native to that area. The natural flora for specific areas is described in Georgia Geologic Survey Bulletin 114, "The Natural Environments of Georgia." Habitats for endangered and threatened species may require river corridor management to maintain those species.

Corridor. All land within the buffer and other setback areas.

DRASTIC. The standardized system for evaluating groundwater pollution potential using the hydrogeologic settings described in U.S. Environmental Protection Agency document EPA-600/287-035.

Governmentally owned. Owned by Dawson County, the Etowah Water and Sewer Authority, or any other similar entity that provides public water or sanitary sewer services.

Hazardous waste. Any solid waste defined as hazardous in regulations promulgated by the United States Environmental Protection Agency administrator under the federal act, which is in force and effect on February 1, 1998, codified as 40 CFR Section 261.3.

Impervious Surface. A manufactured structure or surface that prevents stormwater infiltration into the ground below the structure or surface.

Land disturbing activity. Any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. Land-disturbing shall not include ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions, or minor modifications to a single-family dwelling, and firewood cutting for personal use.

Local government. The governing authority of a political subdivision.

Lot of record. Whenever a lot or plat has been legally and duly recorded with the County Clerk of Superior Court before February 23, 1998, and exists as shown or described, it shall be deemed a lot of record. In addition, lots legally recorded that met zoning standards in place at the time of recordation but do not meet standards currently in place are also considered lots of record. Although said lot may not contain a sufficient land area or lot frontage to meet the minimum lot size requirements of the current zoning, such a lot may be used as a building site provided that all other requirements of the district are met and that building plans are consistent with all state and local health codes.

Overlay district. A land use district that encompasses one or more underlying zones and imposes additional requirements above that required by the underlying zone(s). An overlay district can be coterminous with existing zoning districts or contain only parts of one or more such districts.

Perennial river. A river or section of a river that flows continuously throughout the year.

Perennial Stream. A stream with normal stream flow consisting of base flow (discharge that enters the stream channel mainly from groundwater) or both base flow and direct runoff during any period of the year.

Plans or comprehensive plans. Any plan by a county or a municipality covering such county or municipality or any plan by a regional development center covering the center's region proposed or prepared pursuant to the minimum planning standard and procedures for preparation of comprehensive plans and for implementation of comprehensive plans, established by the Department of Community Affairs in accordance with O.C.G.A. 50-8-1 through 50-8-12.

Pollution Susceptibility. The relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections, and other human activities in the recharge area.

Pollution Susceptibility Maps. Maps of relative vulnerability to pollution prepared by the Department of Natural Resources, using the DRASTIC methodology. Pollution susceptibility maps categorize the land areas of the State into areas having high, medium, and low groundwater pollution potential.

Protected river. As determined by appropriate U.S. Geological Survey documents, any perennial river or watercourse with an average annual flow of at least 400 cubic feet per second. However, those segments of river covered by the Metropolitan River Protection Act or the Coastal Marshlands Protection Act are specifically excluded from the definition of a protected river.

Public utility or utilities. A service or services provided by a public utility company or a private entity that provides or services and all equipment and structures necessary to provide such services.

Quadrangle map. The most recently published U.S. Geological Survey 7.5-minute topographic map prepared at a scale of 1:24,000

Recharge Area. Any portion of the earth's surface where water infiltrates the ground to replenish an aquifer.

Reservoir Boundary. The edge of a water supply reservoir as defined by its normal pool level.

River bank. The rising ground that borders a river and confines the water to the natural channel during the normal flow. For horizontal measurements, the river bank shall be considered the point of wretched vegetation.

River corridor. All the land, inclusive of islands, not regulated under the Metropolitan River Protection Act (O.C.G.A. 12-5-440 through 12-5-457) or the Coastal Marshlands Protection Act (O.C.G.A. 12-5-280 through 12-5-293), in areas of a protected river and being within 100 feet horizontally on both sides of the river as measured from the river banks. The 100-foot buffer shall be measured horizontally from the uppermost part of the river banks, usually marked by a break in slope. Although not within the measured 100-foot-wide buffer, the area between the top of the bank and the edge of the river shall be treated by the local governments in the same manner as the river corridor and included within the River Corridor Protection Plan. Because stream channels move due to natural processes such as meandering, river bank erosion, and jumping of channels, the river corridor may shift with time. For these standards, the river corridor shall be considered fixed at its position at the beginning of each review period for comprehensive local plans. Any shift in the location of the protected river after the start of the review period will require a revision of the boundaries of the river corridor at the time of the next review by the Department of Community Affairs.

River Corridor Protection Plan. That part of the Dawson County Code addresses the river corridor protection requirements.

Sensitive natural areas. Any area, as identified now or hereafter by the Department of Natural Resources, which contains one or more of the following: Habitat, including nesting sites, occupied by rare or endangered species; rare or exemplary natural communities; significant landforms, hydroforms, or geological features; or other areas designed by the Department of Natural Resources that are sensitive or vulnerable to physical or biological alteration.

Significant Recharge Areas. Areas mapped by the Department of Natural Resources.

Single-family dwelling. A dwelling structure that is designed for the use of one family.

Utility. Public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, stormwater systems, and railroads or other utilities identified by a local government.

Water Supply Reservoir. A water impoundment to provide water to one or more public water systems. This excludes the multipurpose reservoirs owned by the U.S. Army Corps of Engineers.

Water Supply Watersheds. The land area upstream of a public drinking water intake.

Water Supply Watershed Protection Plan. A land use plan adopted by local governments or authorities to protect the quality of drinking water obtained from the watershed.

Wetland protection plan. All wetlands within Dawson County are indicated on the Environmental Sensitive Lands Map as "wetlands providing significant wildlife habitat and/or which may be subjected to extensive mitigation."

Wetlands, freshwater. Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of

vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (33 CFR 32.93). The ecological parameters for designating wetlands have hydric soils, hydrophytic vegetation, and hydrological conditions involving a temporary or permanent water source to cause soil saturation. Freshwater wetlands do not include any areas defined as "coastal marshlands" by the State Coastal Marshlands Protection Act of 1980 (O.C.G.A. § 12-5-280 et seq.).

Sec. 109–85. Overlay District Provisions

- A. *Purpose.* The purpose of this overlay district article is to conserve natural resources and realize development objectives. The current land use provisions may adequately regulate the relevant overlay district. Specific and targeted provisions in an overlay district are needed to accomplish land use objectives related to protecting fragile natural resources. The resources include but are not limited to, groundwater recharge areas, water supply, watersheds, protected river corridors, reservoirs, and wetlands.
- B. *Applicability.* The overlay district provisions of this article apply to those parcels within unincorporated Dawson County that have particular development constraints:
1. The Etowah River Water Supply Watershed Protection Overlay District is designated and shall consist of land areas that drain to the public water supply intake on the Etowah River. The boundaries of this overlay are defined by the ridge lines of the respective watersheds and the boundary of a radius of seven miles upstream of the individual public water supply intake. This overlay shall be further delineated and defined on the Etowah River Water Supply Watershed Protection Overlay District Map of Dawson County, which is hereby incorporated and made a part of this article by reference.
 2. The Protected Groundwater Recharge Area Overlay District is designated and shall consist of all lands within the jurisdiction of Dawson County, Georgia, mapped as significant recharge areas by the Georgia Department of Natural Resources in Hydrologic Atlas 18, 1989 edition. These districts shall be further delineated and represented on the Environmentally Sensitive Areas Map of Dawson County, which is hereby incorporated and made a part of this article by reference.
 3. The Etowah River Corridor Protection Overlay District is designated and shall consist of all areas within 100 feet horizontally on both sides of the Etowah River in Dawson County. These districts shall be further delineated and defined on the Etowah River Corridor on the Environmentally Sensitive Areas Map of Dawson County, which is hereby incorporated and made a part of this article by reference.
 4. The Wetland Protection Overlay District is designated and shall consist of all wetlands within the Wetland Protection District as defined herein and located within the jurisdiction of Dawson County. These districts shall be further delineated and represented on the Environmentally Sensitive Areas Map of Dawson County, which is hereby incorporated and made a part of this article by reference.
 5. The Russell Creek Reservoir Watershed Protection Overlay District is designated and shall consist of the land areas that drain to the Russell Creek public water supply intake and water supply reservoir. The overlay boundaries are further delineated and depicted on the Russell Creek Reservoir Watershed Protection Overlay District Map, which is hereby incorporated and made a part of this article by reference.

109- 86. Delineation of Boundaries.

Dawson County has several watersheds delineated on the Dawson County Watershed Map. All watersheds are different, and not all are a resource for drinking water. All lands within water supply watersheds are designated as watershed protection areas and include all that drains from the stream bank from the ridgeline of each watershed. The boundary of the water supply watershed is defined by the ridgeline of the watershed or by the political boundaries of the county, where those boundaries occur within the watershed. Small water supply watersheds within the County jurisdiction include Etowah River and Russell Creek Reservoir. The City of Dawsonville operates four groundwater wells and a spring. Etowah Water and Sewer Authority has a primary public water intake on the Etowah River and a primary public water intake at the Russell Creek Reservoir.

109 -87. Water Supply Watershed; General.

A. *Protected watershed areas; exemptions.*

1. *Silvicultural.* Notwithstanding other provisions of this article, forestry practices, in accordance with a forest management plan that incorporates best management practices (BMPs) approved by the Georgia Forestry Commission, shall be permissible within watershed protection areas.
2. *Agricultural.* Notwithstanding other provisions of this article, the continued cultivation of crops shall be permissible within watershed protection areas, provided that the best management practices (BMPs) of the Georgia Department of Agriculture are followed.
3. *Lot of record.* Notwithstanding other provisions of this article, on the date of adoption of the lot size standards in the Etowah River Corridor and the Russell Creek Reservoir protection overlay.

B. *Development permit required.* Within a water supply watershed, no land-disturbing activity, construction, or other development, other than certain exempted activities identified in this article, may be conducted without a permit from Dawson County, and any development or activities must be in full compliance with the terms of this article and other applicable regulations. All activities not permissible as of right or as special use permit shall be prohibited.

C. *Site plan required.* Applications for a development permit within a water supply watershed shall include a site plan and a lot grading plan in accordance with the permits and procedures section of the Land Use Code. Except for the exemptions listed in this section, all forms of development within the water supply watershed shall be required to prepare a site plan, and a lot grading plan before any building permits or other development-related permits may be issued, or any land-disturbing activity may occur.

D. Restrictions in stream corridors; all watersheds.

1. *Street runoff and drainage.* New streets that cross perennial streams within the water supply watershed areas shall be designed in such a way as to prevent direct runoff from the paved surface into the streams they cross. The site and lot grading plans will show such design features.
2. *Septic tanks and drain fields.* Septic tanks and septic tank drain fields are prohibited in all stream corridors' setback and buffer areas within water supply watershed areas.
3. *Utilities.* Utilities, including sanitary sewers that cannot be practicably located outside the stream buffer or setback area, must be as far from the stream bank as reasonably possible. Such utilities must be installed and maintained to protect the integrity of the stream buffer and setback areas as best as reasonably practicable and must not impair the quality of the drinking water in the stream.

109-88. Etowah River Water Supply Watershed Protection Overlay District; Restrictions

A. Small water supply watersheds; restrictions.

1. *Stream buffer; small water supply watersheds.*

The perennial stream corridors within seven (7) mile radius upstream of a governmentally-owned public drinking water supply intake are protected by the following criteria:

- a. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks for all perennial streams unless a greater distance is required specifically by the Dawson County Code.
 - b. For all perennial streams within the limited development area, no impervious surface shall be constructed within a 100-foot buffer area on both sides of the stream as measured from the stream banks unless a greater distance is required specifically by the Dawson County Code
 - c. Septic tanks and septic tank drain fields are prohibited in the setback area of a. above.
2. The perennial stream corridors outside a seven (7) miles radius upstream of a governmentally owned public drinking water supply intake are protected by the following criteria:
- a. No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream banks for all perennial streams unless a greater distance is required specifically by the Dawson County Code.
 - b. For all perennial streams within the limited development area, no impervious surface shall be constructed within a 50-foot buffer area on both sides of the stream as measured from the stream banks unless a greater distance is required specifically by the Dawson County Code.
 - c. Septic tanks and septic tank drain fields are prohibited in the setback area of a. above.
3. Land use restrictions; small water supply watersheds.
- a. New hazardous waste treatment or disposal facilities are prohibited.
 - b. New sanitary landfills are prohibited.
 - c. Any new facility that handles hazardous materials listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) is prohibited.
 - d. Impervious surface area restricted. The impervious surface area, including all public and private structures, utilities, or facilities, of the entire watershed protection area shall be limited to 25 percent. The Board of Commissioners must approve any individual development resulting in more impervious surface than 25 percent of the property's total area.

109-89. Protected Groundwater Recharge Area Overlay.

- A. *Permitted uses.* All uses allowed in the underlying zoning districts as established by the article, except those listed in prohibited uses below, are permitted in a Protected Groundwater Recharge Area Overlay, subject to the following conditions and standards.
1. No permits shall be issued for new sanitary landfills.
 2. No permits shall be issued for land disposal of hazardous wastes.
 3. No permit for new facilities to treat, store, or dispose of hazardous waste.
 4. No new above-ground chemical or petroleum storage tanks.
 5. No new agricultural waste impoundment sites.
 6. New homes served by septic tank/drain field systems shall be on lots having the following minimum size limitations as identified in Table MT-1 of the Georgia Department of Health manual for on-site sewage management systems ("DPH Table MT-1"), as amended.
 7. New mobile home parks served by septic tank/drain field systems shall have lots or spaces having the following size limitation as identified in Table MT-2 of the Georgia Department of Health manual for on-site sewage management systems (hereinafter DPH Table MT-2), as amended.
 8. Dawson County requires a larger lot size than that required by subsection (a)(6) of this section for homes or by subsection (7) of this section for mobile homes; the larger lot size shall be used.
 9. No construction may proceed on a building or mobile home to be served by a septic tank unless the Dawson County Health Department first approves the proposed septic tank installation as meeting the requirements of the DHR Manual, as amended and subsections (6), (7), and (8) of this section.
 10. New facilities that handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds on any one day or more shall perform their operations on impervious surfaces in conformance with applicable federal spill prevention requirements and the requirements of the International Fire Code.
 11. The Department of Natural Resources shall require conservation design in any new permits for wastewater spray irrigation or the land spreading of wastewater sludges in areas with high pollution susceptibility. This shall be accomplished by comparing the department's Criteria for Slow Rate Land Treatment (February 1986 or latest edition) with amendments and other technical publications to site-specific information submitted by a registered professional engineer for each project.
 12. Permanent stormwater infiltration basins shall not be constructed in areas having high pollution susceptibility.
 13. Exclusive of mining settling basins, new wastewater treatment basins shall have an impermeable liner in areas with high pollution susceptibility.

109-90. The Etowah River Corridor Protection Overlay District.

- A. *Applicability.* These provisions shall apply to all areas of land in unincorporated Dawson County within 100 feet horizontally from the river bank of the Etowah River, downstream from the confluence of the Etowah River and Shoal Creek to the Forsyth County line as found in the Etowah River Corridor Protection Plan.
- B. *Permitted use.* All uses allowed in the underlying zoning districts as established by the article, except those uses listed in Prohibited Uses below, are permitted in the Etowah River Corridor Protection Overlay District, subject to the following conditions and standards:
- C. Protected criteria.
 - 1. The Etowah River Corridor Protection Plan shall provide for maintaining a natural vegetative buffer, except as otherwise provided herein.
 - 2. The Etowah River Corridor Protection Plan shall not prohibit the construction of a single-family dwelling, including the usual appurtenances, within the buffer area, subject to the following conditions:
 - a. The dwelling shall comply with all Dawson County zoning regulations;
 - b. The dwelling shall be located on a tract of land containing at least two acres.
 - c. The size of the tract of land shall not include any area that lies within the protected river; that is, for tracts of land that contain portions of a protected river, the area between the river banks cannot be counted towards the two-acre minimum size);
 - d. Only one dwelling on each two-acre or larger tract of land;
 - e. A septic tank or tanks serving such a dwelling may be located within the buffer area and
 - f. Septic tank drain fields shall not be in the buffer area.
 - 3. Within the river corridor, industrial and commercial land uses existing prior to the promulgation of these provisions are exempt from these criteria provided that:
 - a. Industrial and commercial uses of river corridors shall not impair the drinking quality of the river and
 - b. Industrial and commercial activity within the river corridor shall meet all state and federal environmental rules and regulations.
- D. Except as expressly provided for in the provisions of these criteria (dealing with single-family dwellings within the river corridor), septic tanks and drain fields are prohibited within river corridors.
- E. The Etowah River Corridor Protection Plan shall provide for the construction of road crossings and utility crossings of the river corridor, provided that construction of such road and utility crossings shall meet all requirements of the Erosion and Sedimentation Control Act of 1975 (O.C.G.A. § 12-7-1 et seq.), and the Dawson County Soil Erosion and Sedimentation Control Ordinance and any other applicable local ordinances on soil erosion and sedimentation control.
 - 1. The Etowah River Corridor Protection Plan shall provide the following acceptable uses of river corridors, provided that such uses do not impair the long-term functions of the protected river or river corridor:

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- a. Timber production and harvesting, subject to the following conditions:
 - i. Forestry activity shall be consistent with best management practices established by the Georgia Forestry Commission and
 - ii. Forestry activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.
 2. Wildlife and fisheries management activities consistent with the purposes of O.C.G.A. § 12-2-8.
 3. Recreational usage is consistent with maintaining a natural vegetative buffer or river-dependent recreation. For example, a boat ramp would be consistent with this criterion, but a hard surface tennis court would not. Parking lots are not compatible with this criterion.
 4. Paths and walkways within the river corridor are consistent with this criterion.
 5. Natural water quality treatment or purification.
 6. Agricultural production and management, subject to the following conditions:
 - a. Agricultural activity shall be consistent with best management practices established by the Georgia Soil and Water Conservation Commission;
 - b. Agricultural activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended, and
 - c. Agricultural activity shall be consistent with all state and federal laws and all regulations promulgated by the Georgia Department of Agriculture.
 7. Other uses permitted by the Department of Natural Resources or under Section 404 of the Clean Water Act.
 8. Handling areas for the receiving and storing of hazardous waste is prohibited within the river corridor.
 9. Hazardous waste or solid waste landfills are prohibited within river corridors.
- F. The natural vegetative buffer shall be restored as quickly as possible following any land-disturbing activity within the river corridor. The natural vegetative buffer restoration plan shall be included in the erosion and sedimentation control plan. Dawson County must approve this plan before land disturbance activities. Commercial and industrial uses are prohibited within the river corridor.
- G. Except as noted above, all construction within the buffer area shall be prohibited.

Sec. 109-91. Wetlands Protection District Overlay.

- A. *Permitted uses.* All uses allowed in the underlying zoning districts as established by the Ordinance, except for those listed in prohibited uses below, are permitted in the Wetland Protection District Overlay, subject to the following conditions and standards:
1. No development permit will be issued on a project that appears to contain wetlands until a determination has been made by the Corps of Engineers or a formally trained wetland delineator from the Corps of Engineers' list of approved consultants on whether jurisdictional wetlands exist on the site. If there are jurisdictional wetlands on the site that will be disturbed by the proposed development, the applicant must:
 - a. Obtain a wetlands alteration Section 404 Permit from the Corps of Engineers or
 - b. Provide documentation indicating that coordination with the Corps of Engineers regarding a Section 404 Permit is in effect.
- B. If a project appears to contain wetlands, the following note must be printed in boldface type on all development plans: This site contains wetlands. The applicant will first obtain a wetland alteration Section 404 Permit from the Corps of Engineers before disturbing any jurisdictional wetlands.
- C. Prohibited uses of wetland areas include:
1. Receiving areas for toxic or hazardous waste or other contaminants;
 2. Hazardous or other waste landfills;
 3. Wastewater treatment.
 4. Other uses unapproved by Dawson County
- D. Use of wetland areas without long-term impairment is permitted. Acceptable uses may include:
1. Timber production and harvesting activities consistent with the best management practices established by the Georgia Forestry Commission;
 2. Natural water quality treatment or purification; and
 3. Other uses permitted under Section 404 of the Clean Water Act.

109-92. Russell Creek Reservoir Watershed Protection Overlay.

The Russell Creek Reservoir is within the Alabama-Coosa-Tallapoosa basin within the Etowah River watershed.

- A. *Applicability.* These provisions shall apply to all areas within the Russell Creek Reservoir Watershed Protection Overlay District and as defined below. See Figure #
- B. *Buffer Criteria.*
 1. A natural stream buffer shall be established and maintained within 150 feet of the banks of the Russell Creek Reservoir boundary within any protected watershed area. Vegetation, land disturbance, and land uses shall be controlled by the provisions of the applicable reservoir management plan, as approved by the Georgia Department of Natural Resources (DNR).
 2. The perennial stream corridors within a seven (7) mile radius upstream of the Russell Creek Reservoir are protected by the following criteria: See Figure 4-#
 - a. A natural undisturbed buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
 - b. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream (as measured from the stream banks).
 - c. Septic tanks and septic tank drain fields are prohibited in the 150-foot setback.
- C. *The following land use criteria apply in the Russell Creek supply watershed overlay.*
 1. New sanitary landfills are prohibited.
 2. New hazardous waste treatment or disposal facilities are prohibited.
 3. No silvicultural activities shall be permitted within stream buffers and setbacks.
 4. Impervious surface area restricted. The impervious surface area, including all public and private structures, utilities, or facilities, of the entire watershed protection area shall be limited to 25 percent. The Board of Commissioners must approve any individual development resulting in more impervious surface than 25 percent of the property's total area.
 5. Any new facility that handles hazardous materials listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) is prohibited.
 6. Adjoining lots to the boundary of the reservoir are subject to the following criteria:
 - a. The creation of lots on which there is not sufficient area for construction is prohibited.
 - b. All lots shall have a permanent 150-foot protection buffer adjoining the reservoir property.
 - c. No septic tanks, septic tank absorption field, related structure or feature, substantial structure, or other feature that may adversely impact the reservoir or may occupy any portion of this 150-foot buffer.
 - d. The 150-foot buffer area shall remain a natural vegetated buffer.
 7. Access the Russell Creek Reservoir to conform to the Etowah Water and Sewer Authority policies.

D. *Water Supply Reservoir Management Plan.*

1. Etowah Water and Sewer Authority shall develop and update a reservoir management plan for approval by the Department of Natural Resources. A reservoir management plan protects the Russell Creek Reservoir. All properties within these areas shall have a permanent 150-foot protection buffer adjoining the reservoir property from the normal full-pool elevation.
2. No septic tanks, septic tank drain fields, related structure or feature, substantial structure, or other feature, which may adversely impact the reservoir, may occupy any portion of this 150-foot buffer. Additionally, this area should be a natural, vegetated buffer when the requirements of this section conflict with the requirements within itself or any other lawfully adopted rules, regulations, resolutions, deed restrictions, or covenants, the more restrictive or that imposing higher standards shall govern.
3. The reservoir management plan shall include a buffer maintained 150 feet from the reservoir boundary.

E. *Recreational use of the reservoir and maintaining a buffer around the reservoir.*

Any recreational uses shall protect the reservoir's water quality for drinking water purposes. The recreational uses shall be outlined in the reservoir management plan.

Sec. 109.93. Buffer Requirements.

The buffers required in this section protect the County's drinking water source and are intended to be left in their natural, undisturbed state.

- A. *Buffer Exceptions from County.* Variances required in this Section will only be issued in cases where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship only upon a finding by the County Administrator and approved by the Board of Commissioners.
1. A variance to the buffers established in the adopted ordinance only when:
 - a. Some hardships prevent compliance with the buffer widths and required practices. An opportunity for meaningful public notice of, comment upon, and administrative appeal of all decisions relating to action upon an application for a variance shall be provided. Hardships shall be evaluated in accordance with the following:
 - i. If the applicant complies with the buffer widths and required practices, they can secure no reasonable return from, nor make good use of, their property. Merely proving that the variance would permit a more significant profit from the property shall not be considered adequate justification for a variance. Moreover, the local government shall consider whether the variance is the minimum possible deviation from the buffer widths that shall make reasonable use of the property possible;
 - ii. The hardship results from the application of the buffer widths to the property rather than from other factors, such as unrelated deed restrictions;
 - iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography;
 - iv. The applicant did not cause the hardship;
 - v. The variance is in harmony with the general purpose and intent of the riparian buffer widths and required practices and preserves the meaning thereof;
 - b. In granting the variance, the public safety and welfare have been assured, and the quality of downstream water, including but not limited to water used to supply public drinking water, has been maintained or improved and
 - c. The applicant certifies that the applicant has not and does not intend to apply for a variance from the minimum buffer requirements of the Georgia Erosion and Sedimentation Control Act for the same perennial stream or streams for which a variance is sought according to this paragraph.
- B. *Buffer Exceptions from the State:* Any encroachment into the twenty-five (25) feet undisturbed State Water Buffer will require a buffer variance from the Georgia Environmental Protection Department.
- C. *Conditions:* The County Administrator could, as a condition of the variance to specific provisions of this ordinance, require that alternative measures be taken by the applicant such that the purpose of this ordinance may be achieved through alternative means.