



AN ORDINANCE

BY COUNCILMEMBER CLAIR MULLER

01-0 -0028

AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE OF ORDINANCES TO PROTECT THE CITY'S WETLANDS AND WATER SUPPLY WATERSHEDS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta recognizes the critical roles of wetlands and water supply watersheds in providing for the health, safety, and welfare of the people of the City of Atlanta and surrounding communities; and

WHEREAS, the viability of wetlands and water supply watersheds could be threatened in some instances by the presence of certain types and magnitudes of land development activity and their associated operations in environmentally-sensitive locations; and

WHEREAS, the adverse environmental impacts which may be produced by unregulated land development activity and associated operations in wetlands and water supply watersheds could include water pollution, the loss of available water supply, soil erosion, flooding, destruction of natural plant and wildlife habitats, the loss of lands for recreational and open space purposes, and other impacts; and

WHEREAS, the ability of natural ecosystems to mitigate and compensate for adverse effects emanating from the undesirable impacts of certain types and magnitudes of land development activity and their associated operations in environmentally-sensitive locations is limited and may require many years to occur; and

WHEREAS, undesirable tangible and intangible results could be experienced by the citizens of Atlanta, as well as the necessity for the City of Atlanta to incur exorbitant expenses to take various actions to overcome such adverse environmental impacts; and

WHEREAS, in order for the City of Atlanta to maintain its legal certifications by the Georgia Department of Community Affairs, an acceptable Environmental Element must be included in each annual edition of the City's Comprehensive Development Plan; and

WHEREAS, the City of Atlanta adopted into the 2001 Comprehensive Development Plan 'Exhibit A – Wetland Protection' and 'Exhibit B – Water Supply (Chattahoochee River) Watershed Protection' as Appendix B; and

WHEREAS, the 2001 Comprehensive Development Plan, including Appendices B was adopted by City Council on May 1, 2000.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: That the City of Atlanta's Zoning Ordinance be amended to include two new sections entitled Section 16-28.025 (Wetland Protection) and Section 16-28.026 (Water Supply (Chattahoochee River) and Watershed Protection), as outlined in Appendix B of the 2001 Comprehensive Development Plan, entitled Exhibit A and B, respectively (attached).

SECTION 2: That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

EXHIBIT A

City of Atlanta Wetland Protection Ordinance

Findings and Purpose

Findings of Fact

The wetlands within the City of Atlanta, Georgia are indispensable and fragile natural resources with significant development constraints due to flooding, erosion and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resources education; scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the economic well-being of many communities within the State of Georgia.

Naturally, a considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare.

It is therefore necessary for the City of Atlanta, Georgia to ensure maximum protection for wetlands by discouraging development activities that may adversely affect wetlands.

1.2 Title and Purpose

This Ordinance shall be known as the Wetland Protection Ordinance of the City of Atlanta. The purpose of this Ordinance is to promote wetland protection, while taking into account varying ecological, economic development, recreational and aesthetic values. Activities that may damage wetlands should be located on upland sites to the greatest degree practicable or determined through a permitting process. The objective of this Ordinance is to protect wetlands from alterations that will significantly affect or reduce their primary functions for water quality, floodplain and erosion control, groundwater recharge, aesthetic nature and wildlife habitat.

2 Wetland Protection District

2.1 Wetland Protection District

This ordinance shall apply to all lands within wetlands located within the jurisdiction of the City of Atlanta, Georgia. The Generalized Wetland Map as amended from time to time, adopted as part of this ordinance, shows the general location of wetlands and should be consulted by

persons contemplating activities in or near wetlands. The Generalized Wetland Map, together with all explanatory matters thereon and attached thereto, is hereby adopted by reference and declared to be a part of this ordinance. The Generalized Wetland Map shall be on file in the office of the City of Atlanta City Clerk.

2.2 Wetland Protection District Boundaries.

The Generalized Wetland Map is a general reference document, and wetland boundaries indicated on the map are approximations. The purpose of the Generalized Wetland Map is to alert developers/landowners if they are within proximity to a wetland, which means that there is a high likelihood of the presence of a jurisdictional wetland and a need for the developer/landowner to seek U.S. Army Corps of Engineers guidance as to whether a Section 404 permit will be required prior to any activity. The Generalized Wetland Map does not represent the boundaries of jurisdictional wetlands within the jurisdiction of the City of Atlanta and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps. of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any action by the City of Atlanta under this ordinance does not relieve the land owner from federal or state permitting requirements.

2.3 Relationship to Zoning

The Wetland Protection District is hereby established. The Wetland Protection district shall be indicated on the National Wetlands Inventory map produced by the U.S. Department of the Interior (available in the City of Atlanta Department of Planning, Development and Neighborhood Conservation), which is hereby incorporated and made part of this ordinance by reference. When the two Ordinances conflict, the more restrictive Ordinance shall apply.

3 Development Permits

3.1 Development Permit Requirements.

No regulated activity will be allowed within the Wetland Protection District without written permission from the City of Atlanta, Georgia in the form of a local development permit. Issuance of a local development permit is contingent on full compliance with the terms of this ordinance and other applicable regulations. All activities that are not identified in Subsection 3.3 below or by other local development ordinances, shall be prohibited without prior issuance of a local development permit. If the area proposed for development is located within 50 feet of the Wetland Protection District boundary, as determined from the Generalized Wetland Map, a U. S. Army Corps of Engineers determination shall be required. If

the Corps determines that wetlands are present on the proposed development site and that a Section 404 Permit of letter of Permission is required, a local development permit will be issued only following issuance of the Section 404 Permit or Letter of Permission.

3.2 Permit Requirements within the Wetland District Setback.

Prior to issuance of any development permit for activity within 50 feet of a wetland, the applicant must include, with the site plans for the proposed action, documentation that the following post-development conditions will prevail at the site:

- 3.2.1** The rate of stormwater runoff, volume of stormwater runoff, and peak runoff from the site will not exceed pre-development levels.
- 3.2.2** The amount of the following pollutants carried within runoff from the site will not exceed pre-development conditions: (1) phosphorus; (2) nitrogen; (3) zinc; (4) lead. In addition, biological oxygen demand (BOD) and turbidity (TSS) shall not exceed pre-development levels.
- 3.2.3** In addition to other fees assessed, the applicant is liable for costs incurred during the evaluation of the performance standards evaluation.

3.3 Permissible Uses (Uses as of Right).

The following uses shall be allowed as of right within a wetland to the extent that they are not prohibited by any other ordinances or law, including laws of trespass, and provided they do not require structures, grading, fill, draining or dredging except as provided herein.

- 3.3.1** Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided they do not affect waters of Georgia or of the United States in such a way that would require an individual 404 Permit.
- 3.3.2** Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding and canoeing.
- 3.3.3** Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission and as specified in Section 404 of the Clean Water Act.
- 3.3.4** The continued cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the Georgia Department of Agriculture.
- 3.3.5** The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural Best Management Practices are followed.
- 3.3.6** Education, scientific research and nature trails.

3.3.7 Temporary Emergency Permit. A temporary emergency permit can be issued by the City of Atlanta for the following reasons:

- (a) Maintenance or repair of lawfully located roads or structures and of facilities used in the service of the public to provide transportation, electric, gas, water, telephone, telegraph, telecommunication or other services, provided that such roads, structures or facilities are not materially changed or enlarged and written notice prior to the commencement of work has been given to the City of Atlanta and provided that the work is conducted using best management practices to ensure that flow and circulation patterns and chemical and biological characteristics of the wetland are not impaired and that any adverse effect on the aquatic environment will be minimized.
- (b) Temporary water-level stabilization measures associated with ongoing silvicultural operations.
- {c} Limited ditching, tilling, dredging, excavating or filling done solely for the purpose of maintaining or repairing existing drainage systems necessary for the cultivation of agricultural crops, provided that the maintenance or repair activity does not result in the impairment, alteration or loss of wetlands not previously subject to agricultural and silvicultural use.
- (d) Limited excavating and filling necessary for the repair and maintenance of piers, walkways, nature trails, observation decks, wildlife management shelters, boathouses or other similar water-related structures, provided that they are built on pilings to allow unobstructed flow of water and preserve the natural contour of the wetland.

3.4 Site Plans

Applications for a local development permit for properties included in the Generalized Wetland Protection District shall include a site plan, drawn at a scale of 1" = 50 ft with the following information:

3.4.1 A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross-sectional drawings showing existing and proposed grades. Elevations, horizontal

scale and vertical scale must be shown on the cross-sectional drawings.

- 3.4.2 A map of wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
- 3.4.3 Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 50 feet.
- 3.4.4 The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
- 3.4.5 Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.
- 3.4.6 Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
- 3.4.7 All proposed temporary disruptions or diversions of local hydrology.

3.5 Activities to comply with site plan.

All development activities or site work conducted after approval of the site plan shall conform with the specifications of said site plan. The site plan may be amended only with the approval of the City of Atlanta, Georgia. The City of Atlanta may require additional information deemed necessary to verify compliance with the provisions of this ordinance or to evaluate the proposed use in terms of the purposes of this ordinance.

3.6 Subdivision Design Options in the Wetland Protection District.

Any subdivision that includes Jurisdictional Wetlands shall be subject to criteria established in the City of Atlanta Subdivision Ordinance.

3.7 Filing Fee

At the time of the application, the applicant shall pay a filing fee specified by the City of Atlanta. Filing fees up to a maximum of \$1,000 may be required to evaluate the application. This fee may be used to retain expert consultants who will provide services pertaining to functional assessment, mitigation and wetland boundary determinations as deemed necessary by the City of Atlanta.

3.8 Enforcement Authority.

The Department of Public Works is hereby established as the administrator of this Ordinance.

3.9 Review Procedures.

The application shall be made to the Department of Public Works and will be reviewed within 60 days. The review period shall begin upon determination by the Department of Public Works that the application submitted is complete. The review period shall include the preparation of findings (approval or disapproval) by the Department of Public Works. The applicant will receive written notification of the findings of the City of Atlanta.

3.10 Appeals.

Decisions on permit applications made by the Department of Public Works may be appealed to the Board of Zoning Adjustment and then to the Zoning Committee of the Atlanta City Council. The appeal must be made within 30 days of the decision rendered by the Department of Public Works. A public hearing shall be held for appeals. Public announcement of the hearing shall be printed in a local newspaper of general circulation at least 15 days prior to the hearing. Any person may offer testimony at the hearing. The decision of the Board of Zoning Adjustment//Zoning Committee of the Atlanta City Council may be appealed to a court of competent jurisdiction, as discussed in Section 6.

3.11 Duration of Permit Validity

3.11.1 If construction described in the development permit has not commenced within 12 months from the date of issuance, the permit shall expire.

3.11.2 If construction described in the development permit is suspended or abandoned after work has commenced, the permit shall expire 12 months after the date that work ceased.

3.11.3 Written notice of the pending expiration of the development permit shall be issued by the City of Atlanta.

4 Monitoring and Enforcement

4.1 The Department of Public Works its agent, officers or employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this ordinance and may take or cause to be made such examinations, surveys or sampling as the Department of

Planning Development and Neighborhood Department of Public Works deems necessary.

- 4.1.1** All enforcement and monitoring activities conducted by the Department of Public Works shall be preceded by written notification to the landowner. Said notification shall be issued at least 10 days prior to the activities specified in the notification.
- 4.1.2** The Department of Public Works shall have authority to enforce this ordinance; issue permits hereunder; and address violations or threatened violations hereof by issuance of violation notices, administrative orders and civil and criminal actions. All costs, fees and expenses in connection with such actions may be recovered as damages against the violator.
- 4.1.3** Law enforcement officials or other officials having police powers shall have authority to assist the Department of Public Works in enforcement.
- 4.1.4** The Department of Public Works shall have authority to issue cease and desist orders in the event of any violation of this ordinance. Cease and desist orders may be appealed to a court of competent jurisdiction, as identified in Section 6.

4.2 The City of Atlanta may require a bond in an amount of \$5,000 or 10% of the total improvement cost, or whichever is greater and with surety and conditions sufficient to secure compliance with the conditions set forth in the permit. The particular amount and the conditions of the bond shall be consistent with the purposes of this ordinance. In the event of a breach of any condition of any such bond, the City of Atlanta may institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution.

5 Penalties

- 5.1** Any person who commits, takes part in or assists in any violation of any provision of this Ordinance may be fined not more than \$1,000; for continuing violation, each day's continuance shall be deemed to be a separate and distinct offense.
- 5.2** When a building or other structure has been constructed in violation of this Ordinance, the violator may be required to remove the structure at the discretion of the City of Atlanta.
- 5.3** When removal of vegetative cover, excavation or fill has taken place in violation of this Ordinance, the violator may be required to restore the affected land to its original contours and to restore vegetation as far as practicable, at the discretion of the City of Atlanta.
- 5.4** If the City of Atlanta discovers a violation of this ordinance that also constitutes a violation of any provisions of the Clean Water Act as amended, the City of Atlanta shall issue written notification of the

violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers and the landowners.

- 5.5** Suspension, Revocation. The City of Atlanta may suspend or revoke a permit if finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The City of Atlanta shall cause notice of denial, issuance, conditional issuance, revocation or suspension of a permit to be published in a daily newspaper having a broad circulation in the area where the wetland is located.

6 Judicial Review

6.1 Jurisdiction

All final decisions of the City of Atlanta concerning denial, approval or conditional approval of a special permit shall be reviewable in the Fulton County Superior Court.

6.2 Alternative Actions

Based on these proceedings and the decision of the court, the City of Atlanta may, within the time specified by the court, elect to:

1. Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
2. Approve the permit application with lesser restrictions or conditions (i.e., grant a variance); or
3. Institute other appropriate actions ordered by the court that fall within the jurisdiction of the Department of Public Works.

7 Amendments

These regulations may from time to time be amended in accordance with procedures and requirements in the general statutes as new information concerning wetland locations, soils, hydrology, flooding of plant species peculiar to wetlands becomes available.

8 Assessment Relief

Assessors and boards of assessors shall consider wetland regulations in determining the fair market value of land. Any owner of an undeveloped wetland who has dedicated an easement or entered into a conservation program with the government or a nonprofit organization restricting activities in a wetland shall have that portion of land assessed consistent with those restrictions. Such landowners shall also be exempted from

special assessment on the wetland to defray the cost of municipal improvements such as sanitary sewers, storm sewers and water mains.

9 Separability and Abrogation

All sections and subsections of this ordinance are considered separate and distinct. Should any section, subsection, paragraph or part of this ordinance be declared by a court of jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph of part of this ordinance.

All ordinances and regulations on conflict with this ordinance are hereby repealed.

10 Definitions

Functions

The beneficial roles that wetlands serve, including: storage, conveyance and attenuation of floodwater and stormwater; protection of water quantity and quality and reduction of erosion; habit for wildlife, including rare, threatened and endangered species; food chain support for a wide variety of wildlife and fisheries; educational, historical and archeological value protection; and scenic, aesthetic and recreational amenities.

Generalized Wetland Map

A map showing the general locations of wetlands within the jurisdiction of the City of Atlanta.

Hydric Soils

Soils that form as a result of saturated soils conditions. A list of these soils is maintained by the Soil Conservation Service.

Hydrophytic Vegetation

Macrophytic plants tolerant of or dependent on saturated soil conditions.

Jurisdictional Determination

An official, written statement or map signed by the U.S. Army Corps of Engineers or, in the case of coastal marshlands, the Georgia Department of Natural Resources.

Jurisdictional Wetland

A wetland area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Temporary Emergency Permit

A temporary permit that may be issued in certain circumstances specified in Subsection 3.3.7.

Wetland

An area that is inundated or saturated by surface water or groundwater at a frequency and distribution sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. Wetlands generally include swamps, marshes, bogs and similar areas.

Wetland Delineation

The establishment of wetland boundaries by a representative of the U.S. Army Corps of Engineers or an authority designated by the Corps.

Wetland Protection District

All wetlands within the jurisdiction of the City of Atlanta and shown on the Generalized Wetland Map.

EXHIBIT B

City of Atlanta Water Supply (Chattahoochee River) Watershed Protection Ordinance

1 Findings and Purpose

1.1 Findings of Fact

In order to provide for the health, safety and welfare of the public and a healthy economic climate within the City of Atlanta and surrounding communities, it is essential that the quality of public drinking water be assured. The ability of natural systems to filter stormwater runoff can be threatened by unrestricted development. Land-disturbing activities associated with development can increase erosion and sedimentation which threatens the storage capacity of reservoirs. In addition, stormwater runoff, particularly from impervious surfaces, can introduce toxicants, nutrients and sediment into drinking water supplies, making water treatment more complicated and expensive and rendering water resources unusable for recreation. Industrial land uses that involve the manufacture, use, transport and storage of hazardous or toxic waste materials result in the potential risk of contamination of nearby public drinking water supplies.

1.2 Purpose

The purpose of this ordinance is to establish measures to protect the quality and quantity of the present and future water supply of the City of Atlanta; to minimize the transport of pollutants and sediment to the water supply; and to maintain the yield of the water supply watershed. This ordinance shall apply to the portion of the following watershed, which occur within the jurisdiction of the City of Atlanta and are herein identified as water supply watersheds: the Chattahoochee River watershed.

2 Establishment of a Water Supply Watershed District.

The Chattahoochee River Water Supply Watershed district is hereby designated and shall comprise the land that drains to the Gulf of Mexico thorough the Chattahoochee River from the Chattahoochee River basin north of Peachtree creek to the ridge line of the watershed. The boundary of the Watershed District is defined by the ridge line of the watershed, the boundary of a radius seven miles upstream of the Chattahoochee River or by the political boundaries of the City of Atlanta, where those boundaries occur within the watershed. The boundary shall be set at places readily identifiable on the Water Resources of the Atlanta Region Map, produced by the Atlanta Regional Commission and available in the offices of the Department of Planning, Development and Neighborhood Conservation and the site development division of the Department of Public Works.

2.1 Water Quality Critical Area

The Water Quality Critical Area is established as the Chattahoochee River Corridor of the Metropolitan River Protection Act which includes the stream

channel and the land area extending outward from land that lies adjacent to the Chattahoochee River bank and extending either to the ridge line boundary of the watershed or one mile, whichever is the shorter distance. The Water Quality Critical Area also includes land adjacent to the banks of streams upstream of the Chattahoochee River within a radius of seven miles from the river's boundary and 2,000 feet on either side of such streams, as measured from each bank. The boundary of the Water Quality Critical Area shall be set at places identifiable on the Water Resources of the Atlanta Region map produced by the Atlanta Regional Commission. In cases where there are no nearby identifiable features on the Map; the boundary may be set at the nearest identifiable map feature between one and two miles from the reservoir boundary or 2,000 feet from the stream bank.

2.2 Limited Development Area

The limited development area is established for the remaining part of the Watershed District outside the Water Quality Critical Area.

3 Permit Required

3.1 Permit Requirements

Within the Water Supply Watershed District, no land-disturbing activity, construction or other development, other than certain exempted activities identified within this ordinance may be conducted without a permit from the City of Atlanta and must be in full compliance with the terms of this ordinance and other applicable regulations. All activities that are not permissible as of right or as special permit uses shall be prohibited.

3.2 Exemptions

The following land-use activities are exempted from the permit and site plan requirements of this Ordinance:

3.2.1 Agriculture and Forestry. Normal agricultural activities involving planting and harvesting of crops are exempted if they conform to best management practices established by the Georgia Department of Agriculture. Silvicultural activities must conform to best management practices established by the Georgia Forestry Commission.

3.2.2 Mining Activities. All mining activities that are permitted by the Georgia Department of Natural Resources under the Georgia Surface Mining Act, as amended, are exempted.

3.3 Enforcement

The City of Atlanta, its agent, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this ordinance and may take or cause to be made such examinations, surveys or sampling as the City of Atlanta deems necessary.

- 3.3.1 The Department of Public Works, is hereby designated as the administrator and enforcement authority of this Ordinance.
- 3.3.2 The Department of Public Works shall have the authority to enforce this Ordinance; issue permits hereunder; and address violations or threatened violations hereof by issuance of violation notices, administrative orders and civil and criminal actions. All costs, fees and expenses in connection with such actions may be recovered as damages against the violator.
- 3.3.3 Law enforcement officials or other officials having police powers shall have authority to assist the Department of Public Works in enforcement of this Ordinance.
- 3.3.4 Any person who commits, takes part in or assists in any violation of any provision of this Ordinance shall be fined not more than \$5,000 for each offense. Each violation shall be a separate offense and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense.
- 3.3.5 The Department of Public Works shall have the authority to issue cease and desist orders in the event of any violation of this Ordinance. Cease and desist orders may be appealed to a court of competent jurisdiction, as identified in Section 9.
- 3.3.6 When a building or other structure has been constructed in violation of this Ordinance, the violator shall be required to remove the structure.
- 3.3.7 When removal of vegetative cover, excavation or fill has taken place in violation of this Ordinance, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable.

4 Permit Review

Applications for a development permit within the Watershed District shall include:

4.1 Site Plans Required

Except for the exemptions listed in this section, all forms of development within the Watershed District shall be required to have a site plan prepared and approved according to this ordinance before any building permits or other development related permits may be issued or any land-disturbing activity may take place.

4.2 Information Required

Each site plan submitted under this ordinance shall conform to the site plan provisions of the Zoning Ordinance for the City of Atlanta and the City's Chattahoochee River Corridor Plan.

- 4.2.1 A site plan drawn to a scale of 1"= 50 ft. showing all planned improvements including the width, depth and length of all existing and proposed structures, roads, water courses and drainage ways; water, wastewater and stormwater facilities; and utility installations.

In the event the site plan covers several streets, a general location map drawn at a scale not larger than 1" = 200 ft is also required.

- 4.2.2 Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site.
- 4.2.3 The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
- 4.2.4 Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than five feet.
- 4.2.5 Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
- 4.2.6 Calculations of the amount of cut and fill proposed and cross-sectional drawings showing existing and proposed grades in areas of fill or excavation. Elevations, horizontal scale and vertical scale must be shown on cross-sectional drawings.

4.3 Activities to comply with site plan

All development activities or site work conducted after approval of the site plan shall conform with the specifications of said site plan. Significant changes to the site plan, what would alter the amount and velocity of storm-water runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill or removal of vegetation during construction or otherwise result in an alteration of the overall appearance of the development as proposed, can be amended only with the approval of the Department of Planning, Development and Neighborhood Conservation. Minor changes, such as realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions, are exempted from this requirement.

4.4 Exemptions from Site Plan Requirement

The following activities and developments are exempt from the requirement for detailed site plans:

- 4.4.1 Single-family detached homes constructed within a subdivision of fewer than five parcels.
- 4.4.2 Repairs to a facility that is part of a previously approved and permitted development.

4.4.3 Construction of minor structures, such as sheds or additions to single family residences.

4.5 Pre-Application Conference

A pre-application conference between the applicant and the Department of Planning, Development and Neighborhood Conservation can be scheduled at the request of the applicant. The purpose of the meeting is to review local land use restrictions, site plan requirements and the permitting process.

4.6 Filing Fee

At the time of the application, the applicant shall pay a filing fee specified by the City of Atlanta or its designed. Filing fees up to a maximum of \$1,000 may be required to evaluate the application. This fee may be used to retain expert consultants who will provide services pertaining to functional assessment and mitigation measures as deemed necessary by the City of Atlanta.

4.7 Review Procedures

The application shall be made to the Department of Public Works will be reviewed within 60 working days. The review period shall include the preparation of findings (approval or disapproval) by the Department, Planning and Neighborhood Conservation. The applicant will receive written notification of the findings of the Department of Planning, Development and Neighborhood Conservation.

4.8 Appeals

Decisions on permit applications made by the Department of Planning, Development and Neighborhood Conservation may be appealed to the Board of Zoning Adjustment. The appeal must be made with 30 days of the decision rendered by the Department of Public Works. A public hearing shall be held for appeals. Public announcement of the hearing shall be printed in local newspapers at least 15 days prior to the hearing. Any person may offer testimony at the hearing. The decision of the Board of Zoning Adjustment may be appealed to a court of competent jurisdiction, a discussed in Section 9.

4.9 Public Notice and Public Hearing

Public notice of permit applications, through publication in local newspapers, is required. A public hearing on the application may be scheduled if requested by a citizen. Notice of the public hearing, through a local newspaper of general circulation, must be published at least 15 days prior to be hearing. A record of the proceedings shall be made and kept on file by the City of Atlanta. Any person may testify at the hearing.

4.10 Duration of Permit Validity

4.10.1 If construction described in the development permit has not commenced within twelve months from the date of issuance, the permit shall expire.

- 4.10.2 If construction described in the development permit is suspended after work has commenced, the permit shall expire twelve months after the date that work ceased. In cases of permit expiration due to abandonment or suspension of work, the landowner shall be required to restore topography to its original contours and restored vegetation as far as practicable.
- 4.10.3 Written notice of pending expiration of the development permit shall be issued by the Department of Planning, Development and Neighborhood Conservation no later than 60 days prior to expiration.

5 Land Use Restriction

5.1 Within the Water Quality Critical Area

In addition to the limitations on land use as prescribed by Atlanta's Zoning Ordinance, the following limitations on permissible uses shall apply to the Water Quality Critical Area.

- 5.1.1 Industries. No industries or businesses that distribute or warehouse hazardous materials may be located within the Water Quality Critical Area north of Peachtree Creek.
- 5.1.2 Offices. Offices shall be permissible on land parcels of no less than one acre and no office use on a single parcel of land shall have more than 3,000 square feet of gross floor area. [These restrictions shall not be construed as to prohibit home occupations as defined in the Atlanta Zoning Ordinance.].
- 5.1.3 Commercial and Service Establishments. Uses that provide for the sale of fuel for motor vehicles are prohibited within the Water Quality Critical Area. Other commercial and service establishments shall only be permissible on a land parcel of no less than one acre. No commercial or service establishment shall have more than 3,000 square feet of gross floor area.
- 5.1.4 Residential Land Use. There are no additional restrictions on the types of residential land use allowed within the Water Quality Critical Area.
- 5.1.5 Agricultural Land Use. No confined animal feeding operations may be conducted within the Water Quality Critical Area.
- 5.1.6 Landfills and Waste Disposal. No landfills or wastewater disposal facilities or any kind (except for septic tanks approved by the County health Department) shall be allowed within the Water Quality Critical Area.
- 5.1.7 Hazardous and Toxic Materials. No underground fuel or chemical storage tanks shall be allowed in the Water Quality Critical Area. No facilities that dispose of toxic or hazardous waste may be located within the Water Quality Critical Area. No industries or businesses classified as

large quantity generators of hazardous waste may be located within the Water Quality Critical Area. (A large quantity generator of hazardous waste is any persons, partnership, association, or other legal entity defined as a "large quantity generator" by the Georgia Department of Natural Resources pursuant to O.C.G.A. 12-8-60 et seq. and that is regulated by the State of Georgia under this section. To qualify as a large quantity generator, the legal entity must generate at least 2,200 pounds of hazardous waste per year.)

- 5.1.8 **Fuel and Chemical Storage Tanks.** Underground fuel or chemical storage tanks within the Water Supply Watershed District shall meet all applicable requirements set by the Georgia Department of Natural Resources, Environmental Protection Division.

(The requirements for underground storage tanks can be found in Chapter 391-3-15 (underground Storage Tank Management) of the Official Compilation of Rules and Regulations of the State of Georgia. Contact the Environmental Protection Division of DNR for details.)

- 5.2 In addition to the limitations on land use as prescribed by Atlanta's Zoning Ordinance, the following limitations on permissible uses shall apply to the Limited Development Area.

- 5.2.1 **Industries.** Only those industries that are not large quantity generators of hazardous waste may be located within the Limited Development Area.

- 5.2.2 **Office.** There are not additional restrictions on the type of office land uses permissible within the Limited Development Area.

- 5.2.3 **Commercial and Service Establishments.** There are not additional limitations on the commercial and service establishments permissible within the Limited Development Area.

- 5.2.4 **Residential.** There are no additional limitations on the type of residential land use permissible within the Limited Development Area.

- 5.2.5 **Agriculture.** There are no additional limitations on the type of agricultural land use permissible within the Limited Development Area.

- 5.2.6 **Landfills and Waste Disposal.** There are no additional limitations on municipal solid waste landfills, inert landfills or construction and demolition debris landfills within the Limited Development Area.

- 5.2.7 **Toxic and hazardous Materials.** No facilities that dispose of toxic or hazardous waste may be located within the Limited Development Area.

6 Impervious Surface Limitations

6.1 No more than 25 percent of the land area of any parcel on which new development is placed may be covered by impervious surface within the Chattahoochee River Water Supply Watershed.

6.2 Impervious Surface Setbacks

Within a seven-mile radius upstream of the Chattahoochee River Water Supply Watershed there must be a natural or enhanced vegetative buffer on all perennial streams, with a width of 150 feet as measured from stream banks. Within these buffers, no septic systems are allowed.

No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks.

Outside the seven-mile radius, the setback for impervious surface is 75 feet and the required vegetative buffer is set at 50 feet.

Septic systems cannot be installed within 100 feet of the banks of perennial streams. New hazardous waste facilities are prohibited, and existing facilities are required to perform their operations on an impervious surface with leak and spill protection systems approved by the State of Georgia, Department of Natural Resources (DNR).

6.2.1 For all perennial streams within a seven-mile radius of the Chattahoochee River, no impervious surface shall be constructed within a 150 foot setback area on both sides of the stream as measured from the stream banks.

6.2.2 For all perennial streams beyond a seven-mile radius of the Chattahoochee River, no impervious surface shall be constructed within a 150 foot setback area on both sides of the stream as measured from the stream banks.

6.3 Vegetative Buffers

6.3.1 Stream Buffers within Water Quality Critical Area. For all perennial streams within a seven-mile radius of the Chattahoochee River, a vegetative buffer shall be maintained for a distance of 50 feet on both sides of the stream as measured from the stable stream banks.

6.3.2 Stream Buffers outside the Water Quality Critical Area. For all perennial streams beyond a seven mile radius of the Chattahoochee River, a buffer shall be maintained for a distance of 35 feet on both sides of the stream as measured from the stream banks.

6.3.3 Silvicultural BMPs. Silvicultural BMPs are not permitted within the buffer areas.

6.3.4 Agricultural BMPs. Notwithstanding any other provisions of this ordinance, the continued cultivation of agricultural crops and the occasional pasturing of livestock shall be permissible within the buffer area, provided that the best management practices of the Georgia Department of Agriculture are followed.

6.4 Septic tank drainfield restrictions.

Septic tanks and septic tank drainfields are prohibited in the setback area established in Subsections 6.2.1 and 6.2.2.

6.5 Street runoff and drainage

New streets constructed within the Water Quality Critical Area shall not require any curb and gutter improvements additional to those required in the Zoning Ordinance of the City of Atlanta. New streets that cross perennial streams within a seven-mile radius upstream of the [reservoir or water supply intake] shall be designed in such a way as to avoid direct runoff from the paved surface into the streams they cross. Such design features shall be shown on the site plan.

6.6 Hazardous Materials Handling.

New facilities located within the Water Supply Watershed District that handle hazardous materials of a type and amount requiring a permit from the Department of Natural Resources or that require disposal at a hazardous materials facility by a hazardous materials handler permitted or licensed by the Department of natural Resources, shall perform their operations on impermeable surfaces having spill and leak collection systems. Such spill and leak collection systems shall be shown on the site plan in detail and must be approved, as part of the site plan, by the Department Public Works.

6.7 Soil erosion and sedimentation control

All developments and land disturbing activity within the Water Supply Watershed District shall comply fully with the City of Atlanta Erosion and Sedimentation Control Ordinance.

7 Nonconforming Uses

7.1 Previous uses preserved generally

The lawful use of any building, structure or land use existing at the time of the enactment of this Ordinance may be continued, even though such use does not conform with the provisions of this Ordinance, except that the nonconforming structures of use shall not be:

- 7.1.1 Changed to another nonconforming use;
- 7.1.2 Re-established after discontinuance for one year;
- 7.1.3 Extended except in conformity with this ordinance; or
- 7.1.4 Structurally altered, except for repairs necessary for the continuation of the existing use.

7.2 Replacement of nonconforming uses

A nonconforming building, structure or improvement which is hereafter damaged or destroyed to an extent exceeding 50 percent of the reasonable estimated replacement cost of the structure, building or improvement, as determined by the Department of Public Works, may not be reconstructed or restored to the same nonconforming use except upon written approval of the Department of Public Works.

7.3 Application to projects partially complete.

For any development that has received, before the effective date of this Ordinance, either preliminary plat approval, site plan approval, building permit or other relevant permits provided by the City of Atlanta, and for which substantial work has been completed or substantial investment made in reliance upon such a permit, any future work included in said plat or plan may be completed without being subject to the additional regulations imposed in this ordinance. Any significant additions, expansions or phases that deviate significantly from said plat or plan or that have not yet received a permit shall be subject to the provisions of this Ordinance.

8 Variances

8.1 When Issued

The Department of Public Works may authorize, upon appeal in individual cases, variances from the terms of this ordinance as will not be contrary to the public interest. Variances 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. Such variance may be granted in individual cases of practical difficulty or unnecessary hardship only upon a finding by the Department of Public Works that all of the following conditions exist:

- 8.1.1 There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
- 8.1.2 The application of this ordinance to the particular piece of property would create an unnecessary hardship;
- 8.1.3 Relief, if granted, would not cause substantial detriment to the water quality of the Chattahoochee River or impair the purposes and intent of this ordinance;
- 8.1.4 The special circumstances surrounding the request for a variance are not the result of acts by the applicant;
- 8.1.5 The variance is not a request to permit a use of land, buildings or structures that is not permissible in the district involved; and

8.1.6 The variance will not result in an increase of the impervious surface of the development beyond that prescribed according to Section 6.

8.2 Conditions

The City of Atlanta may, as a condition of the variance to certain provisions of this ordinance, require that alternative measures be taken by the applicant such that the purposes of this Ordinance may be achieved through alternative means.

9 Judicial Review

9.1 Jurisdiction

All final decisions of the City of Atlanta concerning denial, approval or conditional approval of a special permit shall be reviewable in the Fulton County Superior Court.

9.2 Alternative Actions

Based on these proceedings and the decision of the court, the Department of Public Works may, within the time specified by the court, elect to:

9.2.1 Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;

9.2.2 Approved the permit application with lesser restrictions or conditions (i.e., grant a variance); or

9.2.3 Institute other appropriate actions ordered by the court that fall within the jurisdiction of the Department of Public Works.

10 Amendments

These regulations and the Watershed District Map as reflected on the Water Resources of the Atlanta Region map produced by the Atlanta Regional Commission may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.

11 Assessment Relief

Assessors and boards of assessors shall consider the requirements of these regulations in determining the fair market value of land.

12 Separability and Abrogation

All sections and subsections of this ordinance are considered separate and distinct. Should any section, subsection, paragraph or part of this ordinance be declared by a court of jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph or part of this ordinance.

All ordinances and regulations in conflict with this ordinance are hereby repealed.

13 Definitions

Except as specifically described herein, all words in this ordinance shall have their usual and customary meanings. The use of the singular includes the plural and the plural the singular; the present tense includes the future; the use of shall means the action is mandatory; and the use of may or should means the action is optional.

Buffer: A natural or enhanced vegetated area located adjacent to a reservoir or perennial stream within a water supply watershed.

Confined animal feeding operation: A building or fenced enclosure designed and used for the holding or fattening of animals in preparation for market.

Conservation Easement: A portion of land set aside in its natural state and preserved as open space in perpetuity.

Corridor: All land within the buffer area established adjacent to reservoirs or perennial streams within a water supply watershed.

Development or Single Development: Any project or group of related projects constructed or planned for construction on a single parcel or on contiguous parcels under single ownership.

Hazardous Material: Any substance defined as "hazardous waste" by the Georgia Department of Natural Resources pursuant to O.C.G.A. 12-8-60 et seq.

Hazardous Waste: Includes those solid and liquid wastes or combinations thereof that may cause or contribute to an increase in mortality or an increase in serious, irreversible or incapacitating reversible illness or which pose a substantial threat to human health when improperly handled.

Impervious surface: A manmade structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples include buildings, roads, driveways, parking lots, decks, swimming pools and patios.

Land-disturbing activity: Any operation that involves excavation or filling of land, clearing of vegetation or construction, rebuilding or alteration of an existing structure. Land-disturbing activity does not include ordinary maintenance and landscaping activities, yard and grounds maintenance, individual home gardens, repairs or minor modifications to a single family residence or the cutting of firewood for personal use.

Large quantity generator of hazardous waste: Any person, corporation, partnership, association or other legal entity defined as a "large quantity generator" by the Georgia Department of natural Resources pursuant to O.C.G.A. 12-8-60 et seq. and regulated by the State of Georgia under that section.

Limited Development Area: The portion of the water supply watershed not included in the Water Quality Critical Area. See Subsection 2.2

Natural vegetated area: An undeveloped area largely free from human disturbance where naturally occurring vegetation is allowed to remain undisturbed or is enhanced and

maintained by human intervention. Activities specifically allowed in such an area include:

Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife.

Outdoor recreational activities, including hunting, fishing, trapping, bird watching, hiking, boating, horseback riding, swimming, canoeing, skeet and trap shooting;

Education, scientific research and nature trails.

Maintenance or repair of lawfully located roads, structures and utilities used in the service of the public, provided that the work is conducted using best management practices to ensure that negative effects on the pervious nature of the land shall be minimized.

Limited excavating, filling and land disturbance necessary for the repair and maintenance of structures necessary to the permissible uses.

Non-conforming use: A land-use activity, building or structure legally established prior to adoption of this Ordinance or subsequent amendment to it, that would not otherwise be permissible under the provisions of this Ordinance.

Overlay district: A district that applies supplementary regulations to land previously classified as belong to a specific zoning district or land-use category.

Perennial stream: A stream that flows throughout the year, as indicated by a solid blue line on united States Geological Survey (USGS) 7-minute topographic series maps (scale of 1/24,000).

Reservoir boundary: The edge of a reservoir, defined by its normal pool level.

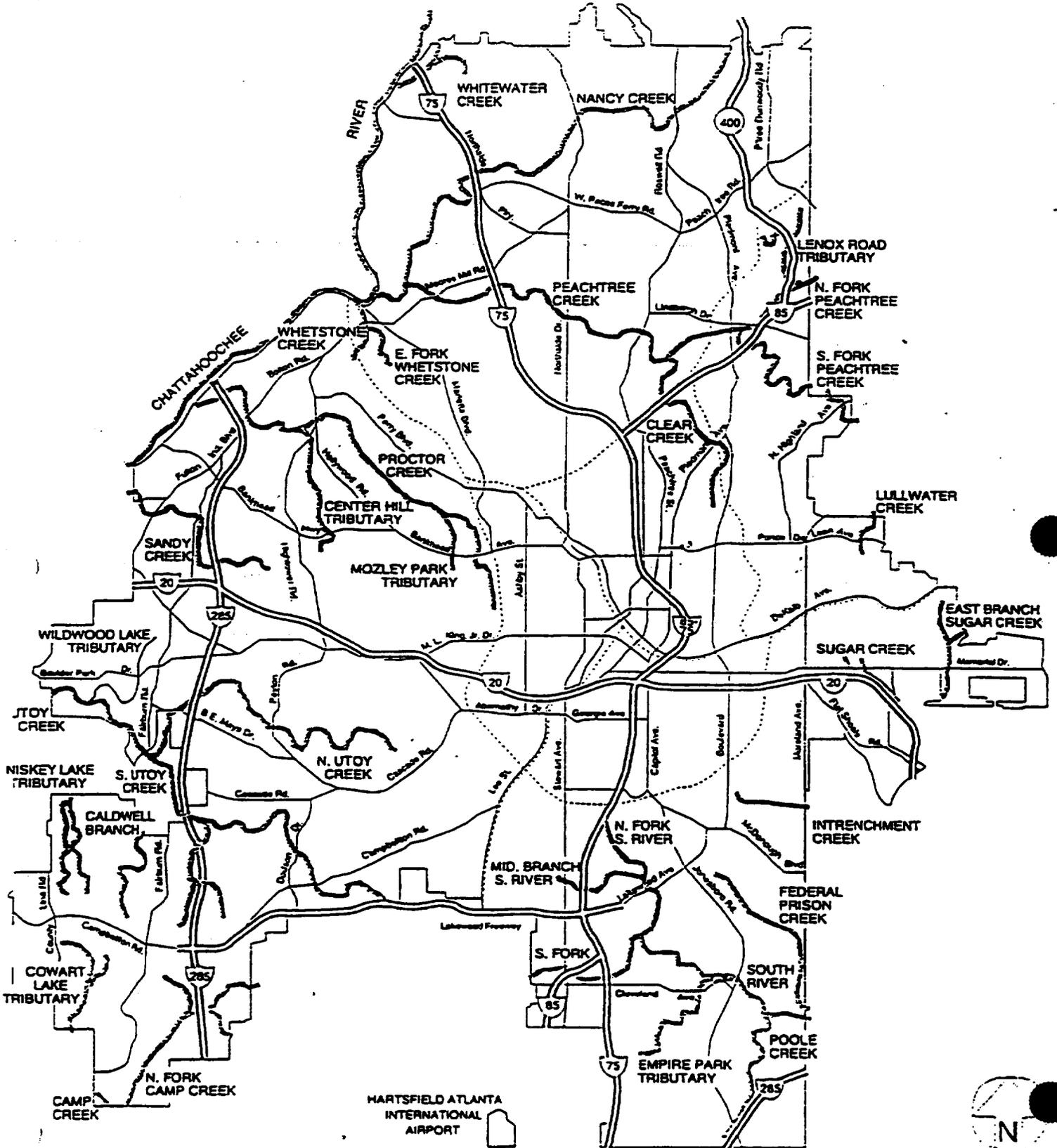
Setback: The distance that defines the width of a protective buffer, measured from the boundary of the feature of the landscape (e.g., a wetland or stream bank) that the buffer is designed to protect.

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/lakes access facilities, stormwater systems and railroads.

Water Quality Critical Area: The portion of the water supply watershed nearest the public water intake, where the most stringent land use limitations of this Ordinance apply. Alternative ways to define the boundaries of the Water Quality Critical Area are provided in Subsection 2.1

Water supply watershed: The drainage area (watershed) of lands upstream of a governmentally owned public drinking water intake or water supply reservoir.

CITY OF ATLANTA GENERALIZED WETLANDS AND WATER SUPPLY WATERSHED MAP



RCS# 2796
4/02/01
3:08 PM

Atlanta City Council

Regular Session

MULTIPLE

00-O-1089 (Z-00-56); 944 Rice Street, NW
& 01-O-0028 Protect City's Wetlands, etc
FILE

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 2

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	B Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	B Alexander
NV Winslow	Y Muller	Y Boazman	NV Pitts

CORRECTED COPY

MULTIPLE

RCS# 2796
4/02/01
3:08 PM

Atlanta City Council

Regular Session

MULTIPLE

Items 9 & 10 - ~~00-0-0128~~

FILE

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 2

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	B Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	B Alexander
NV Winslow	Y Muller	Y Boazman	NV Pitts

MULTIPLE

01-0-0028

(Do Not Write Above This Line)

AN ORDINANCE

BY COUNCILMEMBER CLAIR MULLER

AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE OF ORDINANCES TO PROTECT THE CITY'S WETLANDS AND WATER SUPPLY WATERSHEDS; AND FOR OTHER PURPOSES.

FILED BY CITY COUNCIL APR 02 2001

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 1/2/01
 Referred To: Zoning
 Date Referred 3/5/01
 Referred To: ZRO & Zoning
 Date Referred
 Referred To:

Committee _____
 Date _____
 Chair _____
 Referred to _____

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

First Reading

Committee _____
 Date _____
 Chair _____
 Referred to _____

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Readings
 Consent V Vote RC Vote

CERTIFIED

CERTIFIED
 APR 2 2001
 ATLANTA CITY COUNCIL PRESIDENT
 [Signature]

MAYOR'S ACTION

CERTIFIED
 APR 3 2001
 [Signature]