

ORDINANCE 2009-10
WATERSHED PROTECTION ORDINANCE

AN ORDINANCE ESTABLISHING REGULATIONS FOR THE PURPOSE OF INSURING AND PRESERVING THE IMPROVEMENT OF WATER QUALITY AND FOR COMPLYING WITH LAWS OF THE STATE OF GEORGIA AND FOR OTHER PURPOSES

WHEREAS, the State of Georgia requires municipalities owning water supply reservoirs to place certain restrictions, as described in the Georgia Department of Natural Resources, Environmental Protection Division Rules, Chapter 391-3-16.01, on development within the water supply watersheds to protect the quality of drinking water; and

WHEREAS, the City of Dahlonega has determined that the protection of drinking water watersheds is necessary for the enhancement of public health, safety and welfare as well as to assure that surface sources of drinking water are of high quality in order to be treated to meet all State and Federal drinking water standards.

NOW THEREFORE, it is hereby Ordained by the City Council of the City of Dahlonega as follows:

Section One. Watershed protection areas.

Watershed protection areas are hereby identified, classified, and regulated for the purpose of insuring the preservation and improvement of water quality and for complying with laws of the State of Georgia. The following definitions shall be utilized in the administration of the Watershed Protection Ordinance.

1.1 Definitions

- (1) *Corridor*: all land within the buffer areas and other setback areas.
- (2) *Impervious surface*: A man-made structure or surface which prevents the infiltration of storm water into the ground below the structure or surface. Examples are buildings, paved roads, paved driveways, paved parking lots, swimming pools, or patios.
- (3) *Large water supply watershed*: A watershed area which is greater than one hundred (100) square miles as defined by the Georgia Department of Natural Resources Environmental Protection Division.
- (4) *Buffer*: Buffer means a natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas.
- (5) *Nitrification field*: A nitrification field shall be defined as any system for the on-site disposal of wastewater.

- (6) *Perennial Stream*: a stream that has 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.
- (7) *Reservoir*: A reservoir shall be an existing or future impoundment of water for water supply purposes as identified by resolution of the City Council of the City of Dahlonega.
- (8) *Small water supply watershed*: A watershed area which is less than one hundred (100) square miles as defined by the Georgia Department of Natural Resources Environmental Protection Division.
- (9) *State water*. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, homeowners association, partnership, or corporation. For purposes of this ordinance, the county engineer shall make state water determinations. Recorded drainage easements and ditches/swells used for conveying wet weather flows (i.e., no base flow) shall not be considered state waters.
- (10) *Stream bank*. The uppermost part of the bank marked by a break in slope (as defined by the Georgia Department of Natural Resources Environmental Protection Division). Stream bank is not necessarily the water's edge.
- (11) *Tributaries and streams*. Tributaries and streams, whether named or unnamed, that continuously flow to major water supply streams.
- (12) *Utility*. A public or private water or sewer piping system, water or sewer pumping station, electric power line, fuel pipe line, telephone line, road, driveway, bridge, river/lake access facility, storm water system and/or railroad
- (13) *Water supply reservoir*. A governmentally owned impoundment of water for the primary purpose of providing water to one (1) or more governmentally owned public drinking water systems. This excludes the multipurpose reservoirs owned by the Army Corps of Engineers.
- (14) *Water supply watershed*. The area of land upstream of a governmentally owned public drinking water intake.

Section Two. Applicability.

2.1. Exemptions (Grandfather Provisions)


This ordinance shall not apply to the following activities:

- (1) Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this ordinance.
- (2) Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements and with best management practices available.
- (3) Any land development activity that is under construction, fully approved for development or scheduled for permit approval.
- (4) Land development activity that has not been submitted for approval, but that is part of a larger master development plan designed using best management practices, such as for an office park or other phased development that has been previously approved within two years of the effective date of this ordinance.
- (5) The project consisting of approximately two and one-half miles of recreational surface trails between four and eight feet in width encircling the Yahoola Creek Reservoir. The project also includes a pavilion, comfort station and informational kiosks at each end of the trail. (Agreement for Project Grant No. NRT-03(17) dated March 4, 2004)

2.2. Exemptions


The following specific activities are exempt from this ordinance. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

- (1) Utility lines paralleling the creek provided that:
 - a. the utilities to be located in the buffer or setback areas cannot feasibly be located outside these areas; and
 - b. The utilities are located as far from the stream bank as reasonably possible; and
 - c. The installation and maintenance of the utilities are such to protect the integrity of the buffer and setback areas as best as reasonably possible; and
 - d. The utilities do not impair the quality of the drinking water stream.
- (2) Within an easement of any utility existing at the time this ordinance takes effect or approved under the terms of this ordinance, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.

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- (3) Emergency work necessary to preserve life or property; provided however, when emergency work is performed under this section, the person performing it shall report such work to the City of Dahlonega on the next business day after commencement of the work. Within 10 days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the City of Dahlonega to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
 - (4) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and that are not incidental to other land development activity provided that:
 - a. The activity is consistent with best management practices established by the Georgia Forestry Commission or the Georgia Department of Agriculture; and
 - b. The activity does not impair the quality of the drinking water stream.


2.3 Application to Watersheds


The following large and small water supply watersheds, designated major water supply streams, named tributaries, minor unnamed streams, and state waters located in and out of the large and small water supply watersheds shall be governed by this article.

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- (1) *Large water supply watersheds:*
Not Applicable
 - (2) *Small water supply watersheds:*
Yahoola Creek Basin
 - (3) *Designated major water supply streams:*
Yahoola Creek
 - (4) *Tributaries to water supply streams:*
Ward Creek
 - (5) Any and all minor unnamed streams which are indicated as perennial on the 1963 (photo revised 1982) U.S.G.S. quad sheets.
 - (6) State waters.


Section Three. Restrictions.

3.1 Small Water Supply Watershed


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

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- a. A natural buffer shall be maintained of a distance of 100 feet on both sides of the stream as measured from the stream banks.
 - b. Vegetation within a natural buffer area shall not be disturbed except for approved access and utility crossings.
 - c. No impervious surface shall be constructed within a 150 foot setback area on both sides of the stream as measured from the stream banks.
 - d. Septic tanks and septic tank drainfields are prohibited in the setback area of c. above.
 - e. No sewage treatment facility, dumping, discharging, releasing, spraying, distributing of any toxic or other harmful products is allowed onto the land within the natural buffer.

2. The perennial stream corridors within small water supply watersheds and outside a seven (7) mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir are protected by the following criteria:

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- a. A natural buffer shall be maintained for a distance of 50 feet on both sides of the stream as measured from the stream banks.
 - b. Vegetation within a natural buffer area shall not be disturbed except for approved access and utility crossings.
 - c. No impervious surface shall be constructed within a 75 foot setback area on both sides of the stream as measured from the stream banks.
 - d. Septic tanks and septic tanks drainfields are prohibited in the setback areas of c above.
 - e. No sewage treatment facility, dumping, discharging, releasing, spraying, distributing of any toxic or other harmful products is allowed onto the land within the natural buffer.

3. The following criteria apply at all locations in a small water supply watershed.

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- a. New sanitary landfills are allowed only if they have synthetic liners and leachate collection systems.
 - b. New hazardous waste treatment or disposal facilities are prohibited.
 - c. The impervious surface area, including all public and private structures, utilities, or facilities, of the entire water supply watershed shall be limited to twenty-five

(25) per cent, or existing use, whichever is greater.

- d. Facilities located within seven (7) miles of a water supply intake or water supply reservoir, which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) in amounts of ten thousand (10,000) pounds on any one (1) day or more, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or requirements of the Standard Fire Code.

Section Four. Penalty for Violation.

Violations of this ordinance shall be punishable as a misdemeanor in the Municipal Court of the City of Dahlonega and are subject to a penalty of no less than \$1000.00 per violation per day. Violators shall also be subject to remedial measures at the expense of the violator and jail time at the discretion of the Court.

ORDAINED this 7th day of Dec, 2009.

By: Gary W. Callough
Mayor

Attest: James J. Jauran
City Clerk