

CHAPTER 1

SELECTED CITY REGULATIONS

1.1 State Waters Buffer Variance Procedure

The following has been excerpted from the City of Lawrenceville State Water Buffer Variance as Adopted: October 9, 2000.

1.1.1 State Waters Buffer Variances

1.1.1.1 The following procedure does not supersede Georgia State Law requirements. It is intended to clarify the administrative process of City of Lawrenceville when development plans are submitted for land disturbance activities and construction activities that encroach in the state waters buffer required by the Erosion and Sediment Control Ordinance.

1.1.1.2 Senate Bill 608 of 1994 which amended the Erosion and Sedimentation Act of 1975, states that, "State waters includes 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, partnership, or corporation." This has been interpreted to include dry ditches that carry water immediately after a rainfall.

1.1.1.3 Senate Bill 608 of 1994 which amended the Erosion and Sedimentation Act 1975, states that, "Land-disturbing activities shall not be conducted within 25 feet of the banks of any state waters, as measured from the point where vegetation has been wrested by normal stream flow or wave action."

1.1.1.4 Hardship

1.1.1.4.1 The steps needed to show hardship in a variance application shall include documentation in reference to avoidance, minimization, and mitigation.

1.1.1.4.2 While economics is a consideration in almost all decisions, increased cost due to buffer preservation is not to be sole justification for a hardship.

1.1.1.4.3 Encroachment in a state waters buffer by a commercial building footprint is justification for a hardship, provided the criteria in 1.d.1 have been met.

1.1.1.4.4 Encroachment in a state waters buffer to provide parking for a commercial building should not be sole justification for a hardship.

1.1.1.4.5 Loss of a residential lot to preserve a state waters buffer traversing a residential subdivision should not to be sole justification for a hardship.

1.1.1.5 Mitigation

1.1.1.5.1 The preferred method of mitigation is to relocate the open channel with proper legal authorization (CWA 404) granted by the U. S. Army Corps of Engineers. The relocated channel should duplicate the natural vegetation, biological habitat, stream morphology and stream hydrology as much as practical. The buffer would be relocated along the new channel.

1.1.1.5.2 Bio-engineered solutions with minimal maintenance are preferred systems.

1.1.1.5.3 Mitigation for state water buffer encroachments is in addition to water quality BMP's required by the City of Lawrenceville in conjunction with other regulations.

1.1.1.5.4 The buffer area removed should be replaced on-site. The minimum replacement buffer width shall be 25 feet. Mitigation shall be on a 1:1 basis (no net loss of buffer area) or more as specified by the City. Filter strips around water quality BMP's and detention facilities which filter runoff from the development may be used to mitigate buffer encroachments. Restoration of impaired state waters buffers can be used to mitigate buffer encroachments.

1.1.1.6 The location of state water buffer shall be determined by field survey.

1.1.1.7 The following note shall appear on the erosion control plan. "These plans comply with City of Lawrenceville's State Waters Buffer Variance Procedure."

1.1.2 General Variance

The City of Lawrenceville will not require the design professional to submit a state water buffer variance request to the Georgia Environmental Protection Division for the following structures as long as the conditions "1.1.1.5.1" through "1.1.1.5.6" are met. Mitigation measures discussed in section 1.1.1 are also

required for encroachments in a buffer for state waters with a contributing drainage area of 20 acres and larger.

- 1.1.2.1 Drainage structures such as bridges or culverts, which must be constructed for roadways, are exempt. The drainage structure shall convey water under a roadway by intercepting the flow on one side of a traveled way and carrying it to a release point on the other side. The structure shall only be as long as is needed to safely construct the road and the road shoulder.
- 1.1.2.2 Storm Water Management Facilities such as detention ponds and water quality facilities used as Best Management Practices are exempt.

1.1.3 Drainage Areas Less than 20 Acres

For state waters with contributing drainage areas less than 20 acres, the design professional shall determine if a stream buffer exists and identify any buffer on the land disturbance plans. If land disturbing activities will be conducted within a buffer, the City of Lawrenceville will require the design professional to submit a variance request to the Georgia Environmental Protection Division for activities not exempted in 1.1.1 above. The following conditions must be met for approval to encroach within the 25-foot stream buffer.

- 1.1.3.1 An erosion and sediment control plan must be submitted to and approved by the City;
- 1.1.3.2 All graded slopes 3:1 or steeper must be hydro-seeded and covered with Georgia DOT approved wheat, wood fiber matting or coir coconut fabric. If not hydro-seeded, Georgia DOT approved matting that has been incorporated with a seed and fertilizer must be used. All slopes must be protected until a permanent vegetative stand is established;
- 1.1.3.3 All disturbed areas must be seeded and mulched as soon as final grade is achieved. Also, these disturbed areas must be protected until permanent vegetation is established;
- 1.1.3.4 The amount of land cleared during construction must be kept to a minimum necessary to construct the project as approved;
- 1.1.3.5 Georgia DOT type "C" silt fence must be installed where silt fence is required on the entire site and a double row must be installed between the land disturbing activities and State waters;
- 1.1.3.6 Buffer variance conditions must be incorporated into the Land Disturbing Activity Permit; and

1.1.3.7 This project must be conducted in strict adherence to the approved erosion and sedimentation control plan.

1.1.4 Drainage Areas 20 Acres and Larger

For state waters with contributing drainage areas equal to or greater than 20 acres, the City of Lawrenceville has determined that a buffer exists. The design professional can provide the City with documentation showing that the buffer does not exist. The design professional shall meet with City Staff and receive approval of the buffer location prior to submittal of plans for land disturbing activities. If land disturbing activities will be conducted within the buffer, the City of Lawrenceville will require the design professional to submit a variance request to the Georgia Environmental Protection Division for activities not exempted in 1.1 above. The City of Lawrenceville will support the variance request if the following conditions are met.

1.1.4.1 A showing of good and sufficient cause.

1.1.4.2 A determination that failure to grant the variance would result in exceptional hardship.

1.1.4.3 The hardship was not caused by subdividing larger parcel after the effective date of March 1, 1999.

1.1.4.4 The design professional shall certify that the impacts of the encroachment are mitigated.

1.1.4.5 The conditions “1.1.3.1” through “1.1.3.7” stated in 1.1.3 (Drainage Areas Less than 20 Acres) above must be met.

1.1.5 Field Observations

The City of Lawrenceville has the authority to conduct field observations to determine where a state waters buffer exists.

1.1.6 Administrative and Judicial Appeal

An appeal from decisions rendered by the City of Lawrenceville Director of Planning and Zoning shall be taken to the Environmental Protection Division or U. S. Army Corps of Engineers.

END OF SECTION 1.1