

Article 26 - Part V DNR Environmental Protection Measures

26.1 Purpose

The purpose of this Article is to provide standards for the protection of mountain corridors; the Etowah/Little River Corridor; groundwater recharge areas; water supply watersheds and wetlands within the boundaries of unincorporated Cherokee County.

The intent of the Part V DNR Protection measures is to:

- Preserve the environmental sensitive areas within the delineated boundaries of each measure in perpetuity;
- Preserve the natural terrain and viewsheds of significant mountain corridors above established elevation thresholds to deter erosion and sedimentation build-up in the Etowah River Corridor and its tributaries;
- Preserve the Etowah River Corridor and its tributaries as a natural resource in order to establish buffers to protect the quality and quantity of drinking water supply as well as deter flooding and erosion;
- Preserve aquifers; topographical or soil features; water intake zones and wetlands in order to provide a natural filtering for water supply resources.

Reference maps, parcel specific, for Protected Mountain Corridor (PMC); Etowah/Little River Protection Corridor (ELRPC); Groundwater Recharge Areas (GRA); Water Supply Watersheds (WSW) and Wetlands (WL) are on file in the Planning and Zoning Department to assist in review of the information contained herein.

26.2 Definitions

Hazardous Material – Any substance defined as “hazard material” 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.

Local governing authority or local government – Cherokee County Board of Commissioners

Land Disturbing Activity – Any operation that involves excavation or filling of land; clearing of vegetation; and 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.

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 the work is conducted using best management practices to ensure that negative effects on the previous nature of the land shall be minimized;
- Limited excavating, filling, and land disturbance necessary for the repair and maintenance of structures necessary to the uses permissible in the area as above.

Non-Conforming Use – A land activity, building, or structure legally established prior to adoption of this Ordinance, or subsequent amendment that would not otherwise be permissible under the provisions of this Ordinance and as indicated in Article 13.

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

Perennial River – A river or section of a river that flows continuously throughout the year (12 months)

Person – Any individual, partnership, corporation, trust, entity or authority that shall include the State of Georgia and its entities (i.e. departments; boards; bureaus and commissions, etc.).

Plan – General reference to a plan or comprehensive plan prepared by the county covering such county prepared pursuant to the minimum planning standards and procedures for preparation of comprehensive plans and for implementation of comprehensive plans, established by the Georgia Department of Community Affairs.

Plat Map – The large scale map that shows the location of tracts of land within a jurisdiction, and the tax status of such tracts.

Protected River – Any perennial river or watercourse with an average annual flow of at least four hundred (400 cf./sec) cubic feet per second as determined by appropriate U.S. Geological Survey documents.

Protected Mountain Area – All land area 2,200 feet or more above mean sea level, that has a percentage slope of twenty-five (25%) percent or greater for at least five hundred (500') horizontally and shall include the crests, summits and ridge tops which lie at elevations higher.

Quadrangle Map – The U.S. Geological Survey 7.5 minute topographic map prepared at a scale of 1:24,000.

Reforestation Plan – A plan prepared by a registered forester to calculate the trees required for replanting or by natural regenerative processes (i.e. coppicing, seedlings, etc.).

River Bank – The rising ground, bordering a river, which serves to confine the water to the natural channel during the normal course of flow.

River Corridor - All land, inclusive of islands, in areas of a protected river, which serves to confine the water to the natural channel during the normal course of flow. Because stream channels move due to natural processes, the river corridor may shift with time. For the purpose of these standards, the river corridor shall be considered to be fixed at its position at the time of adoption of the River Corridor Plan. Any shift in the location after that time will require a revision of the boundaries of the river corridor at the time of comprehensive plan review by the Georgia Department of Community Affairs.

River Corridor Protection Plan – The part of the local comprehensive plan that deals with the river corridor protection requirements specified herein.

Sensitive Natural Areas – Any area, as identified now or hereafter by the Georgia 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 so designated by the Georgia Department of Natural Resources; and which are sensitive or vulnerable to physical or biological alteration.

Setback Measurement – The measurement for buffer area, which shall be measured horizontally from the uppermost part of the riverbank, usually marked by a break in the slope.

Single-Family Dwelling – A dwelling structure that is designated 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.

26.3 Protected Mountain Corridor (PMC)

26.3-1 PMC Applicability

The PMC shall apply to all applicable, public or private, mountain areas within the unincorporated boundaries of Cherokee County that:

- are above 2,200 feet or greater above mean sea level;
- have a percentage slope of twenty-five (25%) percent or greater for at least five hundred (500') feet along a horizontal plane;
- shall be inclusive of crests, summits, and ridge tops that lie in any area above the beginning elevation threshold. Flanks of crests, summits and ridge tops with less than twenty-five (25%) slope shall be included within the PMC.

26.3-2 Protected Mountain Corridor Districts

Cherokee County has defined and mapped two (2) protected mountain corridors that are located in the northwest section of the county. The two (2) corridors lie **within a** conservation area interior to Lake Arrowhead, a planned unit development constructed in the 1970's, and are recognized as follows:

- Pine Log Mountain at an elevation of 2,350 feet above sea level
- Bear Mountain at an elevation of 2,302 feet above sea level

26.3-3 Determination Thresholds

26.3-3(1) Determination of Elevation

26.3-3(1)a Parcels of land that are located at and lie above 2,200 foot elevation, as shown on a U.S. Geological Survey quadrangle map as the 2,200 contour line, shall be recognized as protected mountain corridors.

26.3-3(2) Determination of Slope

Parcels of land that have a twenty-five (25%) percent or greater slope for at least five hundred (500') feet in a horizontal plane shall be recognized as protected mountain corridors. Calculation of slope shall be derived from one (1) of the three (3) methods herein:

26.3-3(2)a Measuring the proximity of contour lines on a quadrangle map;

26.3-3(2)b Computer algorithms based on U.S. geological Survey Digital Elevation Models;

26.3-3(2)c Standard survey practice by registered surveyor.

26.3-4 Protected Mountain Corridor Standards

Herein are the Protected Mountain Corridor Standards that shall apply to the unincorporated boundaries of Cherokee County:

26.3-4(1) Land Disturbance Activity

26.3-4(1)a Any proposed land-disturbing activity shall meet the applicable requirements defined in the Erosion and Sedimentation Act of 1975, as amended, and the applicable regulations of local ordinances pertaining to soil erosion and sedimentation control.

26.3-4(1)b Any proposed land-disturbing activity shall meet the applicable requirements of the local governing authority when one (1) or more septic tanks are to be used for individual sewage disposal.

26.3-4(1)c Any proposed land-disturbing activity shall meet the applicable requirements of the Water Well Standards Act of 1985, the Department of Human Resources regulations on individual and nonpublic wells and any other applicable requirements of the local governing authority, considered more stringent, when one (1) or more wells are to be used for individual water supply.

26.3-4(1)d Any proposed land disturbing activity shall not remove more than fifty (50%) of the existing trees that are greater than eight (8") in diameter at the DBH unless an application of reforestation, in accordance with Article 25, has been submitted.

26.3-4(2) Sewage

Sewage treatment shall meet all applicable requirements of the Georgia Water Quality Control Act when the sewage treatment is to be provided by alternate measures consisting of one (1) or more individual septic tanks.

26.3-4(3) Water Supply

Water supply shall meet all applicable requirements of the Georgia Safe Drinking Water Act of 1977 when public water is supplied.

26.3-4(4) Single Family Dwelling(s)

Single family dwelling density shall not exceed more than one (1) DUA and not be less than one hundred (100') feet at building setback. Exemptions to the density restrictions are:

26.3-4(4)a Any lot of less than one (1) acre recorded in the Deed and Records of the Cherokee County Clerk of Superior Court with title of owner(s) and recognized as real property on survey plat as such as of (Implementation date).

26.3-4(4)b Any lot or parcels of land that was part of a master plan for a planned unit development or special approved development approved for development by issuance of a land disturbance permit prior to (Implementation date) and was pursuant to the applicable regulations of the zoning ordinance effective on said date.

26.3-4(5) Multi-Family Dwelling(s)

26.3-4(5)a Multi-family dwelling density shall not exceed more than four (4) DUA in the absence of a public water supply and sewerage system.

26.3-4(5)b Multi family dwelling density shall not exceed more than six (6) DUA if a water supply and sewerage system is available. A parcel shall not be less than one hundred (100') feet wide at the building site.

26.3-4(6) Height Restrictions

No structure shall extend more than forty (40) feet beyond the uppermost point of the crest, summit or ridge top of the protected mountain. The measurement shall be from the highest point at the intersection of the structure and ground level. Exemptions to the height restrictions are:

26.3-4(6)a Water, radio and television towers;

26.3-4(6)b Equipment for the transmission of electricity

26.3-4(6)c Minor vertical projections of a primary structure such as

- Antennas
- Spires; Steeples; Belfries
- Chimneys; Flues
- Cupolas
- Flagpoles
- Poles

26.3-4(7) Tree Survey Plan

A detailed tree survey plan, in accordance with Article 25: Tree Preservation and Replanting Standards, shall be submitted and approved prior to submittal of an application for development. A topographical survey of the project site with an assessment of the impact on the longevity for survivability of the natural environment after completion shall be required in addition to the tree survey plan.

26.3-5 Protected Mountain Corridor Plan(s)

Plans for a protected mountain corridor shall be mapped and identified. Considerations that shall be addressed pertaining to the protected mountain corridor are:

26.3-5(1) The effect of activities within protected mountain areas to the public health; safety; welfare and private property rights;

26.3-5(2) The effect of activities on ground water or surface-water quality within delineated area of protection;

26.3-5(3) The effect of activities on the visual aesthetics of the delineated area of protection;

26.3-5(4) The effect of activities on adjacent environmental sensitive areas to the delineated area of protection;

26.3-5(5) The effects of activities and whether they are temporary or permanent. Temporary activities shall specify the duration of time for the impact.

26.3-5(6) Conservation of unique or significant flora and fauna species (i.e. threatened, rare and/or endangered species);

26.3-5(7) Preservation of significant state historical and archaeological resources recognized by the National Register of Historic Places or listed as eligible.

26.3-6 Protected Mountain Corridor Permitted Uses

Herein are the permitted uses that are allowed in the PMC Districts, provided that conditions are met:

26.3-6(1) Agricultural and Forestry

26.3-6(1)a Agriculture and forestry shall be consistent with the best management practices established by the Georgia Forestry Commission or the Georgia Soil and Water Conservation Commission;

26.3-6(1)b Agriculture and forestry shall be consistent with all state and federal laws, and all regulations promulgated by the Georgia Department of Agriculture.

26.3-6(2) Roadways

Road constructed within a protected mountain corridor provided that they are designed to deter the threat of landslides, erosion and run-off.

26.3-6(3) Mining

Local governing authority shall allow mining activity that is permitted by the Department of Natural Resources.

26.3-7 Protected Mountain Corridor Prohibited Uses

Herein are the prohibited uses in the PMC Districts:

26.3-7(1) Hazardous Waste

26.3-7(1)a Receiving and storage areas that involve handling of hazardous waste;

26.3-7(1)b Disposal facilities for hazardous or solid waste. Exemption shall be granted for those disposal facilities permitted by the Environmental Protection Division prior to the establishment of the PMC.

26.3-7(2) All uses shall be deemed unacceptable that are unapproved by the local governing authority.

26.4 Etowah/Little River Protection Corridor (ELRPC)

26.4-1 Applicability

The ELRPC shall apply to all applicable, public and private land, within the one hundred and fifty (150') feet boundaries (measured horizontally) on each side of the Etowah & Little River. This corridor is established to provide protection against pollutants to the Etowah, a significant drinking water resource, and Little River. However the entire Etowah River Corridor, having an average flow greater than 400 cubic feet per second (cfs), qualifies as a protected river under O.C.G.A.. 12-2-8. The ERPC will be an overlay district and the specific land uses permitted are outlined in Section 26.3-4.

26.4-2 Underlying Zoning Districts

The regulations pertaining to the underlying zoning districts defined in the Cherokee County Zoning Ordinance shall be maintained and not affected, unless otherwise noted herein.

26.4-3 Etowah/Little River Protection Corridor Criteria

26.4-3(1) All development within the ELRPC shall maintain a natural vegetative buffer except as otherwise noted herein.

26.4-3(2) Restoration of the buffer shall immediately begin after any land disturbing activity within the delineated corridor by the planting of grass followed by the installation of landscaping within twelve (12) months.

26.4-3(3) Construction of all types shall be prohibited except otherwise noted herein.

26.4-4 Etowah/Little River Protection Corridor Exemptions

Provided herein are the permitted exemptions for the Etowah/Little River Protection Corridor:

26.4-4(1) Single-family dwellings, including the usual appurtenances that meet the following conditions:

26.4-4(1)a Dwelling is in compliance with all zoning regulations.

26.4-4(1)b Dwellings shall be located on a minimum two (2) acre parcel of land. Any area that is located within the river between the banks and is part of the protected river shall not be counted toward the total acreage requirement.

26.4-4(1)c Each two (2) acre or greater parcel of land shall have only one (1) dwelling.

26.4-4(1)d A septic tank(s) that serves the dwelling unit shall be allowed to locate within the buffer area; however, the drain fields shall be prohibited from the corridor buffer area.

- 26.4-4(2) All construction for road crossings and utility crossings across the river corridor that meet the requirements of the Erosion and Sedimentation Control Act of 1975 and/or other applicable local ordinances on soil erosion and sedimentation control.
- 26.4-4(3) Land use that was existing prior to the implementation of this ordinance and meets the following conditions:
- 26.4-4(3)a Industrial and commercial uses located along river corridor shall not impair the drinking quality of the river water; and
 - 26.4-4(3)b Industrial and commercial uses located within the river corridor shall meet all State and Federal environmental rules and regulations.
- 26.4-4(4) Mining activities that have been permitted by the Georgia Department of Natural Resources pursuant to the Georgia Surface Mining Act of 1968, as amended.
- 26.4-4(5) All utilities other than listed in Section 28.3-5(2) that cannot feasibly be located outside the buffer area, provided that:
- 26.4-4(5)a All utilities shall be located as far from the riverbank in a horizontal plane as reasonably possible;
 - 26.4-4(5)b All utility installation and maintenance shall be carried out in a manner as to protect the vitality of the buffer area as reasonably possible; and
 - 26.4-4(5)c All utilities shall not impair the quality of water that is drawn from the river for the purpose of drinking.
- 26.4-4(6) Timber production and harvesting that meet the following conditions:
- 26.4-4(6)a Forestry activity that is consistent with best management practices established by the Georgia Forestry Commission; and
 - 26.4-4(6)b Forestry activity shall not impair the drinking water quality of the river water as defined by the Federal Clean Water Act, as amended.
- 26.4-4(7) Agricultural production and management that meet the following conditions:
- 26.4-4(7)a Agricultural activity is consistent with best management practices established by the Georgia Soil and Water Conservation Commission;
 - 26.4-4(7)b Agricultural activity shall not impair the drinking quality of the river as defined by the Federal Clean Water Act, as amended; and

26.4-4(7)c Agricultural activity shall be consistent with all State and Federal laws, and all regulations promulgated by the Georgia Department of Agriculture.

26.4-4(8) Wildlife and fisheries management activities consistent with the purposes of O.C.G.A. () 12-2-8.

26.4-4(9) Waste–water treatment facilities.

26.4-4(10) Natural water quality treatment or purification facilities.

26.4-4(11) Recreational usage consistent either with the maintenance of a natural vegetative buffer or with river-dependent recreation.

26.4-4(12) Other uses permitted by the Georgia Department of Natural Resources or under Section 404 of the Clean Water Act.

26.4-5 Prohibited Uses

The following limitations on permissible uses shall apply within the ELRPC in addition to the regulations of the underlying zoning district:

26.4-5(1) Septic tanks and septic drain fields are prohibited within river corridor except the systems indicated in Section 26.3-4(1)d.

26.4-5(2) Hazardous waste receiving and storage areas are prohibited within river corridor.

26.4-5(3) Hazardous waste or solid waste landfills are prohibited within river corridor.

26.4-5(4) All uses that have not been issued approval by Cherokee County shall not be acceptable within the river corridor.

26.5 Groundwater Recharge Areas (GRA)

26.5-1 Finding of Fact

Groundwater is contained in underground geologic formations called aquifers. Water in aquifers is released to the surface through wells and springs or by seepage into lakes, streams, and wetlands. Some lakes, streams, and wetlands depend upon ground water springs or seepage for supplemental water during drought periods. Aquifers store ground water used for public and private drinking water supply and irrigation.

Aquifer recharge is the process by which precipitation infiltrates soil and rock to add to the volume of water stored in pores and other openings within them. While recharge takes place throughout practically all of Georgia's land area, the rate or amount of recharge reaching underground aquifers varies from place to place depending on geological conditions.

In Cherokee County, the primary bedrock is composed of crystalline granite, gneiss, schist and quartzite. These rocks contain very little pore space and have a very low permeability. This low storage capacity is the reason much of Georgia north of the fall line receives its water from surface streams, rivers, lakes and reservoirs. Nearly all bedrock of this type, however, is broken by water-bearing cracks, fractures, and faults which become enlarged over time. When intercepted by a well, these cracks often yield usable quantities of water.

Groundwater quality is particularly important in Cherokee County because a portion of the county is still dependent on well water for domestic use. Centralized sewer systems currently cover only a small fraction of the county's land area, leaving many aquifer recharge areas vulnerable to infiltration from septic tank drainage fields.

Therefore is essential that the quality of drinking water be assured in order to provide for the health, safety and welfare of the citizens of Cherokee County.

26.5-2 Groundwater Recharge Area District

As defined and mapped by the Department of Natural Resources and Georgia Geologic Survey, there are three areas in Cherokee County that are significant recharge areas. These are relatively flat areas with thick soils and may be favored sites for commercial or industrial development. Mapping of these areas by the Geologic survey was done at a 1:500,000 scale, meaning that only the larger recharge areas could be included. The State's intent is that these areas are where ground water protection efforts should be directed. Listed herein are the three (3) areas:

- S.R. 20/Johnson Brady Road – Consists of 240 parcels
- Exit 7: Holly Springs – Consists of 1067 parcels
- S.R. 92/Kellogg Creek – Consists of 352 parcels

26.5-3 Pollution Susceptibility Thresholds

Each recharge area shall be designated with a pollution susceptibility threshold of high, medium or low based on the Georgia Pollution Susceptibility Map prepared by the Georgia Department of Natural Resources.

26.5-4 Groundwater Protection Standards

Provided herein are the Groundwater Protection Standards that shall apply to the unincorporated boundaries of Cherokee County:

26.5-4(1) All pollution susceptibility areas, new waste disposal facilities must have synthetic liners and leachate collection systems.

26.5-4(2) All new agricultural impoundments shall meet the following requirements:

26.5-4(2)a Areas with high susceptibility, a liner shall be provided that is approved by the U.S. Soil Conservation Service (SCS);

26.5-4(2)b Areas with medium susceptibility and that are greater than fifteen (15) acres in size shall require an SCS approved liner.

26.5-4(2)c Areas with low susceptibility and that are greater than fifty (50) acres in size shall require an SCS approved liner.

26.5-4(3) No land disposal of hazardous waste shall be permitted within any Significant Groundwater Recharge Area.(GRA).

26.5-4(4) Within all Significant Groundwater Recharge Areas (GRA), the handling, storage and disposal of hazardous materials shall be confined to an area with an impermeable surface having spill and leak protection approved by the Georgia Department of Natural Resources, Environmental Protection Division (EPD).

26.5-4(5) Within all Significant Groundwater Recharge Areas (GRA), new above ground chemical or petroleum storage tanks larger than six hundred and fifty (650) gallons shall have a secondary containment for one hundred and ten (110%) percent of tank volume or one hundred and ten (110%) percent of the largest tanks in a cluster of tanks.

26.5-4(6) New wastewater treatment basins shall have an impermeable liner approved by EPD within areas with High Pollution Susceptibility.

26.5-4(7) No new storm water infiltration basins shall be constructed within areas with High Pollution Susceptibility.

26.5-4(8) Wastewater spray irrigation systems or the land spreading of wastewater sludge shall be practiced in accordance with Department of Natural Resources criteria for slow rate land treatment within areas with High Pollution Susceptibility. Applicants who submit development plans for activities involving wastewater spray irrigation or land spreading of wastewater sludge shall submit with plans proof that he/she has received a Land Application System permit from EPD.

26.5-4(9) No new mobile home parks shall be allowed on septic systems.

26.5-4(10) All septic system shall be subject to review and approval by the Cherokee County Environmental Health Department prior to the issuance of building permit for a building or mobile home.

26.5-5 Minimum lot sizes with septic systems

New residential dwellings to be served by septic tank/drain systems that encompass the periphery of the groundwater recharge area shall not have a lot area less than 43,560 square feet even if the zoning classification dictates otherwise.

Table 1 – Minimum Lot Size Requirements

Pollution Susceptibility	Residential Dwelling served by septic tank/drain systems (min. lot size)
High	65,340 square feet
Medium	54,450 square feet
Low	47,916 square feet

Source: DHR Manual for On-Site Sewerage Management Systems.

26.6 Water Supply Watersheds (WSW)

26.6-1 Findings of Fact

Water supply watersheds are defined by the Georgia Department of Natural Resources (DNR) as the areas of land upstream of publicly owned drinking water intakes or water supply reservoirs. The volume of water in a stream is usually determined by the amount of precipitation and the moisture absorption capacity and the speed of absorption of water in surrounding soils. Land cover, slope, soil type and the intensity and duration of rainfall all affect the rate of water absorption or infiltration. The water that is not absorbed by the soil runs off the land as overflow, or surface runoff. Water released through soil adds to the overflow to form total runoff. As runoff flows into lower elevations, it collects in drainage basins, the boundaries of which form watersheds. The runoff from a watershed accumulates in streams which serve to move water out of the watershed to lower elevations.

Land development within the water supply watersheds may affect the quantity and quality of raw water which flows into the reservoir or water intake. The potential problems in water supply watershed include point sources and non-point sources of pollution or problems caused by increases in impervious surfaces such as buildings, roads, and parking lots. Point sources of pollution include municipal sewage discharges, industrial wastewater, septic tanks, accidental spills of hazardous material and leachates from landfills or chemical waste dumps. Non-point pollution consists of contaminates which are generated over large areas such as runoff from cropland, managed forests, paved surfaces, construction activities, motor vehicles or runoff following spills of hazardous materials. Increased development increases loading of non-point pollutants into the streams. Removing vegetation from stream channels and paving over the soil also increases the volume and rate of surface water runoff which, in turn, increases the potential for erosion, flooding and sedimentation (pollution) of the stream.

Therefore is essential that the quality of drinking water be assured in order to provide for the health, safety and welfare of Cherokee County citizens.

26.6-2 Water Supply Watershed Districts

The protected water supply watershed district overlay is hereby designated and shall consist of the land areas that drain to the central core of the respective watersheds stated

herein:

- Cleghorne-Spring (Northwest sector) – Consisting of 38 parcels
- Yellow Creek (Northeast sector) – Consisting of 78 parcels
- Big Creek (Southeast sector) – Consisting of 115 parcels

The boundaries of the three (3) overlays are defined by the ridge lines encompassing the central core and a radius of seven (7) miles upstream of the water supply water intakes. Only a small amount of surface water in Cherokee County is subject to stream buffer requirements under the Part V watershed requirements. This area is found in the southeastern part of the county and is associated with a public water intake located in Fulton County. The two public water intakes in Cherokee that are directly on the Etowah River (Canton and Cherokee County Water Authority) are a part of watersheds that are over 100 square miles in size and therefore are exempt from any DNR protective criteria.

26.6-3 Exemptions

Herein are the exemptions for the WSW Districts, provided that the conditions are met:

26.6-3(1) Utilities

26.6-3(1)a All utilities shall be located a minimum of one hundred and fifty (150') feet from the stream bank and not impair the quality of drinking water in the stream.

26.6-3(1)b All utility installation and maintenance shall be carried out in a manner as to protect the vitality of the buffer area as reasonably possible.

26.6-3(2) Forestry and Agricultural

26.6-3(2)a Agricultural activities that involve the planting and harvesting of crops and conform to the best management practices established by the Georgia Department of Agriculture.

26.6-3(2)b Silviculture activities shall conform to the best management practices established by the Georgia Forestry Commission.

26.6-4 Permitted Uses

Herein are the permitted uses (inclusive of the underlying zoning district uses) that are allowed in the WSW Districts, provided that the conditions are met:

26.6-4(1) Natural Buffer Requirements

26.6-4(1)a A natural, undisturbed buffer of one hundred (100) feet wide shall be maintained on each side of the stream and shall be measured horizontally from stream bank.

26.6-4(1)b A natural, undisturbed buffer shall be maintained for a minimum distance of one hundred and fifty (150') feet from the periphery of existing or future water supply.

26.6-4(2) Impervious Surface Thresholds

26.6-4(2)a No more than twenty-five (25%) percent of the land area of any new development may be covered by an impervious surface within the delineated Water Supply Watershed Overlay District.

26.6-4(2)b No impervious surface shall be constructed within one hundred and fifty (150') feet on each side of the stream within the seven (7) mile radius upstream of all public water intakes.

26.6-4(2)c No impervious surface shall be constructed within seventy-five (75') feet on each side of the stream outside the periphery of the seven (7) mile radius upstream of all public water intakes.

26.6-4(2)d Septic tanks and septic drain fields are prohibited in the setback areas defined in Section 26.6-4(1)b.

26.6-4(3) Stormwater Management Control Requirements

All new streets constructed within the Overlay shall employ alternative stormwater management elements in lieu of the standard curb and gutter. New streets crossing perennial streams within the Overlay district shall be designed in such a way as to direct runoff away from pavement to each side of crossing while not impairing the stream below. Primary saturation shall occur away from the stream bank whereby the soils would filter any pollutants. Design(s) shall be reflected on site plan(s) submitted by developer.

26.6-5 Prohibited Uses

Herein are the prohibited uses in the WSW Districts:

26.6-5(1) All sanitary landfills with or without synthetic liners and leachate collection systems.

26.6-5(2) All facilities using hazardous materials.

26.7 Wetlands (WL)

26.7-1 Findings of Fact

Freshwater wetlands may be defined as those areas covered or saturated by water all or part of the time. Wetlands include marshes, bogs, swamps and other inundated areas. They are normally found in flood plains, along stream banks and adjacent to ponds and lakes. Vegetation adapted for life in saturated soil is prevalent, although standing water may not

always be seen. Wetlands are valuable to mankind in many ways. They protect and improve water quality by trapping and filtering pollutants and sediments and by recharging groundwater supplies. During floods, wetlands minimize the damage to human life and property by serving as water containment areas. This has the effect of reducing the volume, velocity and duration of the flood itself. Wetlands are significant biological habitats that are essential breeding, nesting and feeding areas for many species. The abundance of wildlife provides ample opportunities for outdoor recreation, including hunting and fishing.

In an effort to protect and manage the nation's fresh water wetlands, the United States Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (COE) have adopted the Section 404K program of the Clean Water Act. EPA and COE share the primary responsibility for enforcement.

Therefore is essential that the wetlands be protected for natural water filtration and in order to provide for the health, safety and welfare of Cherokee County citizens.

26.7-2 Wetland Protection District

The WL District(s) shall consist of all applicable lands within wetlands lying within the unincorporated boundaries of Cherokee County. All individual(s) who propose development activity shall reference the National Wetlands Inventory Map prepared by the U.S. Department of the Interior.

26.7-3 Permitted Uses

Herein are the permitted uses allowed in the WL Districts, provided that they are not prohibited by any other ordinance of law and do not require structures, grading, fill, draining or dredging except unless stated otherwise:

- 26.7-3(1) Conservation or preservation of soil, water, vegetation, fish, and other wildlife, provided they do not affect waters of Georgia or the United States in such a way that would require an individual 404 Permit.
- 26.7-3(2) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding and canoeing.
- 26.7-3(3) Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission.
- 26.7-3(4) The cultivation of agricultural crops. All agricultural activities shall be subject to the best management practices (BMP) approved by the Georgia Department of Agriculture.
- 26.7-3(5) The pasturing of livestock.
- 26.7-3(6) Education, scientific research and nature trails.

26.7-4 Development Permits

26.7-4(1) Local Development Permit Requirements

No regulated activity will be allowed within the WL District without written permission from Cherokee County 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 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 one-hundred (100) feet of the Wetland Protection District boundary, as determined from the National Wetlands Inventory Map (U.S.

Department of the Interior), a U.S. Army Corp of Engineers' determination shall be required. If the Corps determines that wetlands are present on the proposed site and that Section 404 Permit or Letter of permission is required; a local development permit will be issued only following issuance of the Section 404 Permit or Letter of Permission.

26.7-4(2) Temporary Emergency Permit

Cherokee County EMA Director may issue a temporary emergency permit given the following conditions/reasons indicated herein:

26.7-4(2)a Replacement of lawfully located roads or structures and of facilities used in the service of the public to provide transportation, electricity, gas, water, telephone, telegraph, telecommunication or other services due to destruction by natural disaster situations shall be exempt from permit issuance process.

26.7-4(2)b Maintenance or repair of lawfully located roads or structures and of facilities used in the service of the public to provide transportation, electricity, 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 Cherokee County 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.

26.7-4(2)c Temporary water-level stabilization measures associated with ongoing silvicultural operations.

26.7-4(2)d 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 under the terms and provisions.

26.7-4(2)e Limited excavating and filling necessary for the repair and maintenance of a pier, 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.

26.7-4(2)f In addition to other fees assessed, the applicant may be held liable for costs incurred by Cherokee County during evaluation of the performance standards evaluation.

26.8 Permit Requirements and Enforcement

Cherokee County shall not issue any building permit, rezoning request or subdivision plat, unless the permit, request or plat is in compliance with all of the criteria elements pertaining to the Part V DNR Environmental Criteria described herein.

26.8-1 Enforcement

Cherokee County Planning and Zoning Department professional staff shall have the authority to enter upon privately owned land for the sole purpose of performing the duties under this Article and may conduct or cause to occur examinations, surveys or sampling as the Administrator deems necessary. Herein are other items relating to enforcement:

26.8-1(1) The Administrator or his/her designee shall oversee enforcement of this Article.

26.8-1(2) The Administrator shall have the authority to enforce this Article; 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 civil damages against the violator.

26.8-1(3) Any person who commits, takes part in or assists in any violation of any provisions of this Article shall be fined and/or imprisoned up to the maximum sanction authorized by Cherokee County Board of Commissioners.

26.8-1(4) When removal of vegetative cover, excavation or fill has take place in violation of this Ordinance, the violator shall be required restore the affected land to its original contours and to restore vegetation, as far as practical.

26.8-2 Development Review Requirements

All applicants who seek to build/construct a structure shall be required to submit plans in accordance with the provisions herein in addition to the Development Plan Review Process.

26.9 Separability and Abrogation

All sections and subsections of this Article 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, paragraph, or part of this Article and/or Ordinance.

26.10 Effective Date

This ordinance shall become effective upon adoption by the Cherokee County Board of Commissioners (4/20/99).