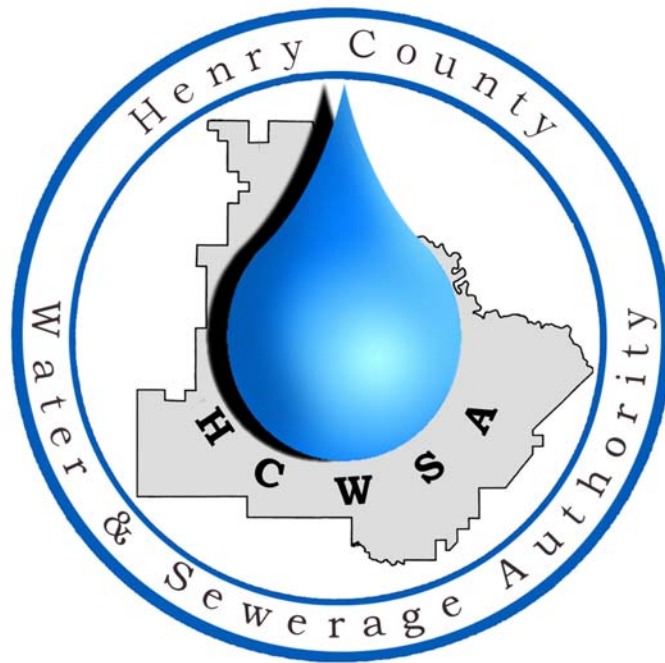


Henry County
Water & Sewerage Authority



***WATERSHED PROTECTION
ORDINANCE***

**WATERSHED PROTECTION DISTRICTS RULES, REGULATIONS AND
ORDINANCES**20 04- 04

THE ESTABLISHMENT OF RULES, REGULATIONS, AND ORDINANCES (HEREINAFTER REFERED TO AS "ORDINANCE") FOR THE PURPOSE OF ESTABLISHING PROTECTION DISTRICTS; FOR THE PURPOSE OF DEFINING CERTAIN WORDS; FOR THE PURPOSE OF DESCRIBING THE WATERSHED DISTRICTS TO BE PROTECTED; TO PROVIDE FOR REGULATIONS FOR DEVELOPMENT IN THE WATERSHED DISTRICTS; TO PROVIDE FOR CERTAIN RESTRICTIONS; FOR THE PURPOSE OF ESTABLISHING AN EFFECTIVE DATE; FOR THE PURPOSE OF REPEALING CONFLICTING RULES, REGULATIONS AND ORDINANCES; AND FOR OTHER PURPOSES NOT INCONSISTENT WITH THIS ORDINANCE.

SECTION 3-7-159:

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 Henry county 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 urban and suburban development. Land-disturbing activities associated with development can increase erosion and sedimentation that 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 Henry County; 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 portions of the following watersheds, which occur within the jurisdiction of Henry County and are hereinafter identified as water supply watersheds.

2. 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, the use of “may” or “should” means the action is optional.

Authority: The use of the word “Authority” shall mean the Henry County Water & Sewerage Authority.

Best Management Practices Plan (BMP Plan): A Plan consisting of a wide range of management procedures, activities, and prohibitions or practices which control the quality and/or quantity of stormwater runoff and which are compatible with the planned land use.

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

Commercial: For purposes of this Ordinance, “Commercial” shall be defined to correspond to the definition and use of the word “commercial” in the Henry County Zoning Ordinance, as amended, and shall also include all uses that are commercial as defined in the C1, C2, and C3 Districts of the Henry County Code.

Confined animal feeding operation: A building or fenced enclosure designed and used for holding or fattening of animals in preparation for market. It does not include the pasturing of animals at densities recommended by the best management practices of the Georgia Department of Agriculture as follows: horses – one per 43,560 square feet (one (1) acre); cow – one per 43,560 square feet, sheep or goats – one per 20,000 square feet; fowl- twenty (20) per 43,560 square feet.

Corridor: All land within the buffer areas 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.

Enforcer: The Enforcer is defined as the Henry County Water Authority’s General Manager or his designee.

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

Hazardous Waste: Any solid waste which has been defined as “hazardous waste” in regulations promulgated by the Administrator of the United States Environmental Protection Agency pursuant to the Federal Act which are in force and effect on February 1, 1991, codified as 40 C.F.R. Section 261.3 as hereafter amended and any designated hazardous waste. Also any

substance defined as “hazardous waste” by the Georgia Department of Natural Resources pursuant to O.C.G.A. Section 12-8-60 et. seq. as hereafter amended.

Impervious Surface: A manmade structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples include, but are not limited to, buildings, roads, driveways, parking lots, decks, swimming pools or patios.

Industrial: For purposes of this Ordinance, “Industrial” shall be defined to correspond to the definition and use of the word “industrial” in the Henry County Zoning Ordinance, as amended, and shall also include all uses that are industrial as defined in the M1 and M2 Districts of the Henry County Code.

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

Landfill: For purposes of this Ordinance, “Landfill” shall be defined to correspond to the definition and use of the word “landfill” in Henry County Zoning Ordinance Section 3-5-101, as amended.

Multi-family residential: For purposes of this Ordinance, “Multi-family residential” shall be defined to correspond to the definition and use of the words “multi-family residential” in the Henry County Zoning Ordinance, as amended, and shall also include all uses that are multi-family residential as defined in the RM, RD, and PD Districts of the Henry County Code.

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, but are not limited to:

- 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 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.

Net Acreage: The total acreage of any parcel or combined parcels of land to be developed as a single project, less the sum of the following: total number of acres contained in the 100 year flood hazard area, total number of acres contained in rights of way, the total number of acres contained in detention or retention ponds to be constructed and wetlands.

Net Density: The total number of dwelling units divided by the Net Acreage within the boundaries of any parcels of land to be developed as a single project.

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.

Office: For purposes of this Ordinance, “Office” shall be defined to correspond to the definition and use of the word “office” in the Henry County Zoning Ordinance, as amended, and shall also include all uses that are defined in the OI District of the Henry County Code.

Open Space: For purposes of this Ordinance, “Open Space” shall be defined as undisturbed lands or otherwise properties set aside for recreational uses, buffers, common areas, landscape areas, as well as other uses defined under the “Open Space Categories” described below. Buffers and wetlands, if located on lots to be conveyed to private property owners, shall not be considered as “Open Space.” Land contained within the 100-year flood zone shall not be considered as “Open Space” if located on lots that are to be conveyed to private property owners. Land designated as “Open Space” is divided into five categories (the “Open Space Categories” or, singularly, an “Open Space Category”):

- Category A – wetland stream buffers; 100-year flood hazard areas, undisturbed buffers between various land uses, roadside buffers, wildlife sanctuaries, and other forms of buffers, if owned by the developer or a property owners association;
- Category B – improved and revegetated areas utilized for active recreation, such as ball fields, parks and golf courses;
- Category C – improved, active recreation areas, such as swimming pools, tennis courts and playgrounds;
- Category D – state waters, including wetlands, ponds, lakes, if owned by a developer or a property owners association; and
- Category E – land donated to a governmental entity for public use, provided such land is not located in a wetland or 100-year flood zone.

In order to calculate the total “Open Space,” the total acreage contained within each Open Space Category is multiplied by its respective factor, as set forth below:

- Category A factor = 1.0
- Category B factor = 0.7
- Category C factor = 0.2
- Category D factor = 0.5
- Category E factor = 2.0

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

Perennial stream: A stream which flows through 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 (elevation above mean sea level).

Residential: For purposes of this Ordinance, “Residential” shall be defined to correspond to the definition and use of the words “single family residential” and “single residential” in the Henry County Zoning Ordinance, as amended, and shall also include all uses that are single family residential as defined in the R1, R2, R3, RA, and RMH Districts of the Henry County Code.

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.

Water Quality Critical Area: The Water Quality Critical Area is defined as follows: (a) All land that lies adjacent to the normal pool level of the reservoir and extending either to the ridge line boundary of the watershed or five hundred (500) feet whichever is shorter; and (b) All land

extending a distance of three (3) miles upstream from the normal pool level of the reservoir that is adjacent to each perennial stream upstream from the reservoir and extending either to the ridge line boundary of the watershed on each side of the perennial stream of five hundred (500) feet, whichever is shorter.

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

3. Establishment of Watershed Districts, Descriptions, Maps, Critical Areas and Limited Development Areas.

3.1 Designation of Water Supply Watershed Districts. The following watershed districts are hereby established and designated:

- (a) Towaliga River
- (b) Indian Creek
- (c) Long Branch Creek
- (d) Tussahaw Creek
- (e) Shoal Creek

3.2 Description of Each Water Supply Watershed District.

A. TOWALIGA RIVER

The Towaliga River Watershed District is defined as follows: all land that lies on each side of the Towaliga River and each perennial stream that flows into the Towaliga River to the ridge line from Steel Mills Dam located just north of Locust Grove-Griffin Road to the beginning points of the Towaliga River and each perennial stream that drains into the Towaliga River in said area.

B. LONG BRANCH CREEK

The Long Branch Creek Watershed District is defined as follows: all land that lies on each side of Long Branch Creek and each perennial stream that flows into Long Branch Creek to the ridge line from the Long Branch Dam located just north of Locust Grove-Griffin Road to the beginning points of Long Branch Creek and each perennial stream that drains into Long Branch Creek in said area. Long Branch Creek is a tributary to the Towaliga River and is contained within the Towaliga River Watershed District.

C. INDIAN CREEK

The Indian Creek Watershed District is defined as follows: all land that lies on each side of Indian Creek and each perennial stream that flows into Indian Creek to the ridge line from the S.H. Gardner Reservoir Dam located on Indian Creek just north of Indian Creek Road to the beginning points of Indian Creek and each perennial stream that drains into the Indian Creek within said area. Indian Creek is a tributary to the Towaliga River and is contained within the Towaliga River Watershed District.

D. TUSSAHAW CREEK

The Tussahaw Creek Watershed District is defined as follows: all land that lies on each side of Tussahaw Creek and each perennial stream that flows into Tussahaw Creek to the ridge line from the west right of way line of Finchersville Road located in Butts County, Georgia, to the beginning points of Tussahaw Creek and each perennial stream that drains into Tussahaw Creek in said area. The main perennial streams that flow into the Tussahaw Creek at the location of the proposed reservoir site are Peeksville Creek and its tributaries, Wolf Creek and its tributaries, Malholms

Creek and its tributaries. All of said creeks are located in the Tussahaw Watershed District.

E. SHOAL CREEK

The Shoal Creek Watershed District is defined as follows: all land within the boundaries of Henry County located in the Shoal Creek drainage basin upstream from the Shoal Creek Tandem Reservoir Dam, being that portion of Henry County which lies northerly and westerly of Lovejoy Road.

3.3 Watershed District Maps. A map of each Water Supply Watershed District will be maintained by the Authority. Said map is hereby incorporated herein and made a part of this Ordinance by reference.

3.4 Water Quality Critical Area.

3.4.1 The Water Quality Critical Area for each of the above-stated watershed districts is: (a) All land that lies adjacent to the normal pool level of a reservoir and extending either to the ridge line boundary of the watershed or five hundred (500) feet whichever is shorter; and (b) All land extending a distance of three (3) miles upstream from the normal pool level of the reservoir that is adjacent to each perennial stream upstream from the reservoir and extending either to the ridge line boundary of the watershed on each side of the perennial stream or five hundred (500) feet, whichever is shorter.

3.4.2 The normal pool level elevation of the existing and proposed reservoirs of the Authority are as follows:

- (a) Lower Towaliga River Reservoir contour line El. 658.0;
- (b) Upper Towaliga River Reservoir contour line El. 720.0;

- (c) Long Branch Reservoir contour line El. 720.0;
- (d) Indian Creek Reservoir contour line El. 728.0;
- (e) Tussahaw Creek Reservoir contour line El. 600.0;
- (f) Shoal Creek Reservoir contour line El. 845.0;

* Elevations are based on U.S. Geological Survey Datum.

3.5 Limited Development Area. A Limited Development Area is established for the remaining part of the watershed district that is located outside of the Water Quality Critical Area to the ridgeline of each watershed district.

4. Letter of Certification Required.

4.1 Letter of Certification Requirements. Within each Water Supply Watershed District, no land-disturbing activity, construction or other development, other than certain exempted activities identified within, may be conducted without a letter of certification from the Authority. The letter of certification shall be issued only if the proposed land-disturbing activities, construction or other development are in full compliance with the terms of this Ordinance, all of the rules, regulations, and ordinances of the Authority, and all other applicable regulations, including but not limited to, the Henry County Zoning Ordinance, Henry County Subdivision Ordinance, Henry County Soil Erosion and Sedimentation Control Ordinance, Henry County Flood Damage Prevention Ordinance and Henry County Storm Water Management Ordinance. All activities that are not permissible as of right or as conditional use shall be prohibited.

4.2 Exemptions. The following land-use activities are exempted from the development review and permit requirements of this Ordinance:

4.2.1 Agriculture and Forestry. Normal agricultural and forestry activities involving planting a 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 by the Georgia Forestry Commission.

4.2.2 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.

4.3 Enforcement. The Authority, its agents, 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 Authority deems necessary. The Authority shall not provide any water or sewerage service to any lot, building, or structure that is not in compliance with this Ordinance and all other rules, regulations, and ordinances of the Authority.

4.3.1 The Authority's General Manager is hereby designated as the administrator and enforcement authority of this Ordinance.

4.3.2 Reserved.

4.3.3 Agents and employees of the County and the Authority and law enforcement officials of the County and other law enforcement officials have police powers and shall have authority to assist the Enforcer in enforcement of this Ordinance.

4.3.4 Any person who commits, takes part in, or assists in any violation of any provision of this Ordinance shall be fined a civil fine of not more than

\$1,000.00 for each offense. Each violation of this act 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.

4.3.5 The Enforcer shall have the authority to enforce this Ordinance; to authorize issuance of permits thereunder; to address violations and to refer violations to the code enforcement department of the Authority; to issue citations for violation of this Ordinance; to issue administrative orders (including but not limited to stop work orders); and to commence civil and criminal actions.

4.3.6 The Enforcer or his designee 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 under Section 11 hereof.

4.3.7 When a building or other structure has been constructed in violation of this Ordinance, the violator shall be required to remove the structure.

4.3.8 When removal of vegetative cover, excavation or fills have 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, in compliance with the Henry County Soil Erosion and Sedimentation Control Ordinance.

4.3.9 All costs, attorney's fees, expert witness fees and other expenses incurred by the Authority in connection with the enforcement of this Ordinance shall be recovered from the violator.

5. **Permit Review.** If applications are submitted to a City, County or other governmental entity for development of property that is subject to this Ordinance, such applications shall also be submitted to the Authority and shall comply with the following:

5.1 Existing Ordinances. Each application shall comply with all existing ordinances, amendments thereto and subsequent amendments. Said ordinances include but are not limited to this Ordinance, the Henry County Zoning Ordinance, the Henry County Subdivision Ordinance, the Henry County Soil Erosion and Sedimentation Control Ordinance, the Henry County Flood Damage Prevention Ordinance and the Henry County Storm Water Management Ordinance.

5.2 Additional requirements for development of property located in the Watershed Districts. In addition to the requirements of each of the above referenced ordinances, site plans or construction improvements plans for development of property shall contain the following additional information:

- 5.2.1 The total square feet and acres of property to be developed.
- 5.2.2 The location, dimensions, and area (in square feet) of all impervious surfaces, both existing and proposed, on the site.
- 5.2.3 The distance of each impervious structure and surface to the nearest bank of an affected perennial stream and reservoir.
- 5.2.4 The location of each perennial stream that crosses or abuts the site.
- 5.2.5 The location of each public reservoir that abuts the site.
- 5.2.6 The location, elevation and orientation of the hundred (100) year flood plain on the site.

5.2.7 The site plan submitted shall contain a certification issued by a registered land surveyor or registered engineer verifying the location of the site as being located either within the Water Quality Critical Area, the Limited Development Area or outside of both areas.

5.2.8 Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.

5.3 Reserved.

5.4 Activities to comply with site development plan. All development activities or site work conducted after approval of the site plan shall conform with the specifications of said approved plans. Significant changes to the site plan, that would alter the amount or 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 an 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 Authority. Any such amendments shall also comply with all other applicable ordinances and laws.

5.5 Exemptions from site development plan requirements.

5.5.1 Repairs to a facility that is part of a previously approved and permitted development.

5.5.2 Accessory structures such as barns, sheds, or additions to single-family dwellings.

5.6 Duration of Permit Validity.

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

5.6.2 If construction described in the permit is suspended after work has commenced, the permit shall expire twelve months after the date the 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 restore vegetation as far as is practicable.

6. Land Use Restrictions. The following limitations on permissible uses together with the limitations on land use prescribed under the ordinances of Henry County, the laws of the State of Georgia, the regulations of the regulatory agencies of the State of Georgia, laws of the United States of America and the regulations of the regulatory agencies of the United States of American shall apply.

6.1 Within the Water Quality Critical Area. The following limitations on permissible uses shall apply to the Water Quality Critical Area.

6.1.1 Agricultural Land Use. No confined animal feeding operations may be conducted within the Water Quality Critical Area.

6.1.2 Commercial Establishments. No commercial activity may be conducted within the Water Quality Critical Area.

6.1.3 Fuel and Chemical Storage Tanks. No above ground or underground fuel or chemical storage tanks shall be allowed in the Water Quality Critical Area.

6.1.4 Industries. No industrial activity may be conducted within the Water Quality Critical Area.

6.1.5 Landfills and Waste Disposal. No landfills or wastewater disposal facilities of any kind (except for septic tanks approved by the Henry County Health Department and wastewater disposal facilities owned and operated by the Authority) shall be allowed within the Water Quality Critical Area.

6.1.6 Offices. Offices are not permissible within the Water Quality Critical Area.

6.1.7 Residential Land Use. Single-family residential lots are permissible if acreage requirements hereinafter set forth are met. Residential lots having no less than two (2) acres when served by a septic tank system and no less than one and one-half (1.5) acres when served by a public sewer system. The minimum lot width permissible for development with septic tank systems when using a public water system is 175 feet.

6.1.8 Toxic and Hazardous Materials. No facility that stores or disposes of underground fuel or chemical storage tanks shall be allowed in the Water Quality Critical Area. No industry or business that generates hazardous waste may be located within the Water Quality Critical area.

6.2 Within the Limited Development Area. The following limitations on permissible uses shall apply to the Limited Development Area.

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

6.2.2 Commercial Establishments. Commercial establishments shall only be permissible on land parcels of no less than one and one-half (1.5) acres if served by a septic tank system and no less than one (1) acre if served by a public sewer system.

6.2.3 Fuel and Chemical Storage Tanks. Underground fuel and chemical storage tanks will be allowed if they meet all of the requirements set forth by the Georgia Department of Natural Resources Environmental Protection Division.

6.2.4 Industries. No industry or business that manufactures toxic or hazardous materials may be located in the Limited Development Area. Only those industries that are not large quantity generators of hazardous waste may be located within the Limited Development Area. Permitted industries must be located on land parcels of no less than four (4) acres if served by a septic tank system and no less than two (2) acres if served by a public sewer system.

6.2.5 Landfills and Waste Disposal. No landfills shall be allowed within the Limited Development Area. Septic tanks approved by the Henry County Health Department and sewage disposal facilities owned and operated by the Authority will be allowed in the Limited Development Area.

6.2.6 Offices. Offices shall be permissible on land parcels of no less than one and one-half (1.5) acres if served by a septic tank system and no less than one (1) acre if served by a public sewer system.

6.2.7 Residential. Single-family residential lots are permissible if acreage requirements hereinafter set forth are met. Residential lots served by a septic

tank system shall be a minimum of one (1) acre. Residential lots served by a public sewer system shall be a minimum of four-tenths (0.4) of an acre (18,000 square feet). Residential lots served by a public sewer system and contained as part of a planned development district (as defined in Section 3-7-157 of the Zoning Ordinance of Henry County) shall be a minimum of one-quarter (0.25) of an acre (10,890 square feet), provided that: (i) the impervious surface limits as set forth in Subsection 7 hereof are observed; (ii) the net density of the entire planned development does not exceed 1.75 dwelling units per acre, (iii) at least 20% of the planned development is preserved as Open Space (as herein defined); and (iv) storm water treatment facilities as set forth in Section 10.3 are constructed and maintained at property owner/developer expense pursuant to any requirements that may be imposed by regulatory agencies, as well as requirements imposed by the Department of Community Development for Henry County or the Henry County Water and Sewerage Authority. No single family residential development shall be permitted that has a net density that exceeds 1.75 dwelling units per acre.

6.2.8 Toxic and Hazardous Materials. No facilities that dispose of toxic or hazardous waste may be located within the Limited Development Area. No facility that manufactures, stores or disposes of toxic or hazardous waste may be located within the Limited Development area.

6.3 Property abutting perennial streams and perennial streams crossing property located in Limited Development Area. If a perennial stream abuts or crosses any property upon which an industrial facility, office facility, commercial

facility, service facility, residential building, or multi-family residential building is located, the following minimal lot sizes will be required:

(a) if served by a septic tank system:

- 1) industrial lots: five (5) acres
- 2) office lots: two (2) acres
- 3) commercial establishments: two (2) acres
- 4) residential: one and one-quarter (1.25) acres
- 5) multi-family residential: eight (8) acres

(b) if served by public sewer system:

- 1) industrial lots: two (2) acres
- 2) office lots: one and one-half (1.5) acres
- 3) commercial establishments: one and one-half (1.5) acres
- 4) residential: one (1) acre
- 5) multi-family residential: one (1) acre

7. **Impervious Surface Limitations.**

7.1 Percentage Allowed. The percentages of impervious area allowed in the Water Quality Critical Area and the Limited Development Area are set forth below. The percentages set forth below shall be determined by the addition of all land areas to be covered by impervious structures during the development of the property (i.e., roads, streets, driveways, houses, buildings, parking areas).

7.1.1 Water Quality Critical Area. No more than twenty (20) percent of the land area of any parcel on which a new development is placed may be covered by impervious surface within the Water Quality Critical Area.

7.1.2 Limited Development Area. No more than twenty-five (25) percent of the land area of any parcel on which a new development is placed may be covered by impervious surface within the Limited Development Area.

7.2 Alternative Provisions.

7.2.1 The impervious surface of a single family residential development within the Limited Development Area may be increased to thirty-five (35) percent provided that:

(A) Development of land in the Limited Development Area includes area(s) set aside to remain in natural vegetation or open space in the amount of two times the area of impervious surface above the twenty-five (25) percent limit. Ownership of such parcels in fee simple or as a conservation easement must be conveyed to the County, a homeowners' association, or some other governmental or nonprofit entity.

(B) If the recipient of the property or conservation easement is to be an existing or proposed organization other than a governmental entity, the developer must submit to the Authority articles of association or incorporation which establish the entity. Said document must be approved in writing by the Authority prior to approving said development. Any proposed changes in said articles shall require the prior written approval of the Authority.

(C) If the recipient is a homeowners' association, membership in the homeowners' association shall be mandatory for property owners and made a required covenant in all deeds issued or passed. The association shall provide voting and use rights in the natural vegetated area when applicable and charge

dues or levy assessments to cover expenses which may include tax liabilities of common areas, and for the maintenance of such common areas, natural vegetated areas, improvements, rights of way, utilities, etc. Such association shall be responsible for the perpetuation, maintenance, and function of all common lands, uses and facilities.

(D) All lands and improvements shall be described and identified as to location, size, use and control in a restrictive covenant. The details of all easements conveyed shall be likewise described. These restrictive covenants shall be written so as to run with the land and become a part of the deed of each lot or dwelling unit within the development.

(E) Such restrictive covenants and the association shall continue in effect so as to control the availability of facilities for their intended function, and to protect the development from additional unplanned densities and use. Such associations shall not be dissolved, nor shall such association dispose of any land set aside for the purposes of this section, by sale or otherwise without prior written consent to the Authority.

(F) Any and all natural vegetated areas shall be held in common ownership by the dwelling unit owners. Any change in the natural vegetated area, other than to maintain it in reasonable order and condition in accordance with the approved final plan, shall require prior written approval of the Authority.

(G) The natural vegetated area may be set aside by the developer by acquiring property in fee simple or a conservation easement within the Watershed District.

7.2.2 The impervious surfaces for industrial, commercial, offices, institutional, public and multi-family residential development within the Limited Development Area may be more than twenty-five percent (25%) impervious surfaces provided the following structural stormwater controls are taken.

(A) Stormwater Management Plan detailing the Stormwater Control Structures proposed for the development shall be required. Said plan shall be in conformity with the requirements of the Henry County Storm water Management Ordinance as amended from time to time. The preferred structure control is a wet detention pond which shall be located on site, or, as part of a regional pond where available. The design standards for detention ponds intended for watershed protection shall be found in the Henry County Construction Standards Manual, as amended from time to time. The construction of all stormwater controls designed for watershed protection shall be completed and have received final inspection approval from the Authority before the Authority shall provide any water or sewerage services to the property.

(B) Channelization of perennial streams shall be prohibited, except for road crossings, erosion and sedimentation control, or stormwater management control devices.

(C) All permanent storm water control structures and easements for maintenance and access shall be recorded in the final plat of the property in accordance with the Subdivision Ordinance and Stormwater Management Ordinance. The developer shall submit a detailed, long-term schedule for inspection and maintenance of stormwater control structures. The schedule shall include a legal agreement for maintenance responsibility between the local government and property owner. The Authority shall not provide water or sewerage service to the property until a fully executed maintenance agreement has been executed and accepted by the Authority. Inspections can include, but are not limited to:

1. Initial review of stormwater management plan which must occur prior to the Authority's providing water or sewerage service.
2. Inspection prior to burial of any underground drainage structure.
3. Erosion and sedimentation control inspections, as required on the approved project soil erosion and sedimentation control plan, and the County Soil Erosion and Sedimentation Control Ordinance.
4. A final inspection when all work, including installation of drainage facilities, has been completed.
5. Inspection prior to final subdivision plat approval for acceptance of public improvements (including, but not limited to storm water management and drainage facilities).

6. Subsequent inspections, measurement, and enforcement actions as necessary to insure continued functioning of the facilities for stormwater management and watershed protection.

(D) A development may participate in a regional wet detention pond program which has been established by one or more public or private entities subject to the following conditions:

1. Runoff from the development drains shall flow into a regional stormwater management control facility approved by the Authority.
2. An agreement between the Authority and the landowner has been executed which guarantees participation in the regional stormwater arrangement of the property and the detention pond.
3. Construction of a regional detention pond meets or exceeds the design requirements of the Henry County Stormwater Management Ordinance.

(E) A development may provide an alternative method for stormwater control other than a wet detention pond provided that it is in compliance with the Henry County Stormwater Management Ordinance, and design criteria for pollutant removal equivalent to those associated with wet detention ponds included in the Henry County Construction Standards Manual, as amended.

7.3 Impervious Surface Setbacks.

7.3.1 Water Quality Critical Area. No impervious structure shall be constructed within two hundred (200) feet of the normal pool level of a

reservoir or of any perennial stream located in the Water Quality Critical Area.

7.3.2 Limited Development Area. No impervious surface shall be constructed within a one hundred fifty (150) foot setback area on both sides of a perennial stream as measured from the stream banks in the Limited Development Area.

7.4 Vegetative Setbacks/Buffers.

7.4.1 Stream Buffers within Water Quality Critical Area. A natural or enhanced vegetative buffer shall be maintained for a distance of one hundred fifty (150) feet from the normal pool level of a reservoir and one hundred (100) feet on both sides of a perennial stream as measured from the banks.

7.4.2 Stream Buffers within the Limited Development Area. A natural or enhanced vegetative buffer shall be maintained for a distance of one hundred (100) feet on both sides a perennial stream as measured from the stream's banks.

7.4.3 Silvicultural BMPs. Notwithstanding any other provisions of this Ordinance, forestry practices, in accordance with a forest management plan that incorporates best management practices (BMPs) approved by the Georgia Forestry Commission, shall be permissible in the buffer areas. However, no trees or vegetation shall be removed any closer than twenty-five (25) feet on each side of any perennial stream.

7.4.4 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.

7.5 Septic tank drain field restrictions. Septic tanks and septic tank drain fields are prohibited in the setback area established in **Subsections 7.3. and 7.4.**

7.6 Hazardous Materials Handling. New facilities located within the Water Supply Watershed District that handle hazardous materials or a type or amount requiring a permit from the Department of Natural Resources of that require disposal by a hazardous materials handler permitted or licensed by the Department of Natural Resources at a hazardous materials facility, 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 Authority.

7.7 Soil erosion and sedimentation control. All developments and land disturbing activity within the Water Supply Watershed District shall comply fully with the Soil Erosion and Sedimentation Control Ordinance of the County.

8. Nonconforming Uses.

8.1 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:

8.1.1 Changed to another nonconforming use;

8.1.2 Reestablished after discontinuance for one (1) year;

8.1.3 Extended except in conformity with this Ordinance; or,

8.1.4 Structurally altered, except for repairs necessary for the continuation of the existing use.

8.2 Replacement of nonconforming uses. Nonconforming uses that are damaged or destroyed may be repaired or replaced, unless such damage or destruction is the due to the intentional acts of the property owner or the agents or employees of the property owner and such damage or destruction is not a casualty. Any repairs or replacements of damaged or destroyed property shall not increase the square feet of impervious surfaces on the property, place any improvement closer to any perennial stream mentioned in this Ordinance, or in any way increase the degree of nonconformity from the degree of nonconformity that was existing prior to the damage or destruction.

8.3 Application to projects partially complete. For any development which has received, before the effective date of this Ordinance, any permits provided by the Authority, 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.

9. **Reserved.**

10. **Variances.**

10.1 Issuance of Variances.

The Authority may authorize upon appeal in individual cases, such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this Ordinance shall be observed. The Authority shall not accept any appeal for a variance until all necessary zoning permit(s), including any zoning variances as may be necessary, have been obtained from the proper jurisdiction. A variance from the Authority may be granted in such individual cases of practical difficulty or unnecessary hardship only upon a finding by the Enforcer that a majority of the following conditions apply:

10.1.1 There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;

10.1.2 The application of this Ordinance to this particular piece of property would create an unnecessary hardship;

10.1.3 Relief, if granted, would not cause substantial detriment to the water quality of Water Supply Watershed District or impair the purposes and intent of this Ordinance;

10.1.4 The special circumstances surrounding the request for a variance are not the result of acts by the applicant;

10.1.5 The variance is not a request to permit a use of land, buildings or structures which is not permissible in the district involved; and,

10.1.6 The variance will not result in an increase of the impervious surface of the development beyond that prescribed according to Section 7.

10.2 Conditions. The Authority may, as a condition of variances to certain provisions of this Ordinance, require alternative measures to be taken by the applicant such that the purposes of this Ordinance may be achieved through alternative means.

10.3 Storm Water Treatment. To the extent any project or development receives a variance under the requirements of this Ordinance or is developed as part of a planned development district as defined in Section 3-7-157 of the Zoning Ordinance of Henry County, the preparation of a storm water Best Management Practices Plan (BMP Plan) and treatment of storm water is required. Other types of development permitted under this Ordinance may also require a BMP Plan and storm water treatment.

If it is determined by the Henry County Water and Sewerage Authority that the proposed variance or the development may result in the degradation of water quality, a storm water Best Management Practices (BMP's) Plan will be required. The BMP Plan shall be prepared by a professional engineer and shall be designed to provide water quality treatment for the first inch of water runoff from all proposed impervious areas disturbed by the proposed project. This plan must be approved by the Henry County Building and Engineering Departments and the Henry County Water and Sewerage Authority prior to approval of the request for variance. The BMP Plan shall be included in and made a part of the Storm Water Management Report (SWMR) that is required under Sections 3-6-61 through 3-6-65 of the Code of Ordinances of Henry County.

Elements of the BMP Plan may include but are not limited to:

- Check dams. Dams constructed across a drainage swale or ditch to minimize erosion by reducing storm water velocity.
- Energy dissipation devices. Paved or riprapped channel sections placed below storm drain outlets to reduce flow velocity.
- Water quality inlets. Specially constructed storm water inlets designed to remove sediment, debris, oils, and greases from storm water.
- Such other water treatment facilities that are deemed necessary to treat the runoff water before said water enters the streams of the drainage district.
- Buffer zones. Strips of undisturbed, original land or vegetation surrounding the land-disturbed site to reduce storm water velocities and filter pollutants.
- Grass swales and filter strips. Vegetative drainage conveyances, used in lieu of storm drains, designed to reduce flow rates and provide filtering/infiltration of storm water.
- Dry detention ponds. Dry surface storage areas designed to collect and store storm water runoff and to provide settling of pollutants.
- Wet detention ponds. Wet storage ponds designed to collect and store storm water runoff and to provide settling of pollutants.
- Wetland plantings. Areas designed to collect, store, and treat storm water runoff using appropriate wetland vegetation.

The SWMR and the BMP Plan shall be submitted to the Henry County Water and Sewerage Authority for its review and report to the Henry County Building and Engineering Departments. The Authority's report shall determine whether or not the SWMR and the BMP Plan meet the requirements of this Ordinance. The Authority shall not provide any

water or sewerage service to the property until the SWMR and the BMP Plan have been approved by the Authority. If, during the course of the development the Henry County Water and Sewerage Authority finds that the developer is in violation of the SWMR or the BMP Plan, the Authority will notify the Henry County Building Department and a Stop Work Order shall be issued. Upon the issuance of the Stop Work Order by the Henry County Building Department, all development and construction on the project shall immediately cease until the developer is in full compliance with the terms of this Ordinance.

11. Appeals.

Any individual may appeal a decision of the Authority's Manager to the Henry County Water & Sewerage Authority by filing a written request within ten (10) days of the Manager's decision.

12. Amendments.

These regulations and the Watershed District Map may from time to time be amended in accordance with the procedures and requirements in the general statutes.

13. Separability and Abrogation.

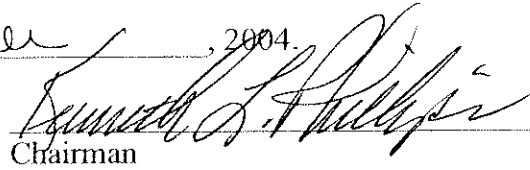
All sections and subsections of this Ordinance are considered separate and distinct. Should any section, subsection, paragraph or part of this Ordinance be declared by a court of jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph or part of this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

BE IT RESOLVED, that any rules, regulations, ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

BE IT FURTHER RESOLVED, these rules, regulations, and ordinances shall become effective on the first day of the month following its adoption.

This 28th day of September, 2004.

BY:


Chairman

Henry County Water & Sewerage Authority

Attest:



Kimberly Turner Osborne

Clerk