

**AN ORDINANCE TO AMEND THE CITY OF JOHNS CREEK STREAM BUFFER
PROTECTION ORDINANCE TO ALLOW VARIANCES FOR THE GEORGIA
DEPARTMENT OF NATURAL RESOURCES SMALL WATER SUPPLY
WATERSHED BUFFERS**

- WHEREAS,** the Official Code of Georgia Annotated §12-2-8 authorizes the Georgia Department of Natural Resources (DNR) to develop minimum standards and procedures for “the protection of the natural resources, environment, and vital areas of the state, including [...] watersheds of streams and reservoirs which are to be used for public water supply”;
- WHEREAS,** DNR adopted Rule 391-3-16-.01 “Criteria for Water Supply Watersheds” to protect drinking water watersheds by establishing buffer zones upstream of water supply reservoirs;
- WHEREAS,** DNR allows the local governments to “consider granting a variance to the buffers” when “[t]here are hardships that prevent compliance”;
- WHEREAS,** the City of Johns Creek adopted the DNR Criteria for Small Water Supply Watersheds, without allowing variances from DNR buffers;
- WHEREAS,** property owners within DNR buffers cannot modify or expand existing structures or add new improvements, which could create extreme hardships in many cases; and
- WHEREAS,** the City recognizes the Stream Buffer Protection Ordinance should be amended to allow for stream buffer variances for the DNR buffers by establishing variance consideration criteria, variance procedure, and mitigation standards.
- NOW THEREFORE,** the Mayor and Council of the City of Johns Creek hereby ordain that the Stream Buffer Protection Ordinance are amended as follows:

CHAPTER 109 – NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Article V. – STREAM BUFFER PROTECTION

Section 109-119. - Compatibility with other buffer regulations and requirements.

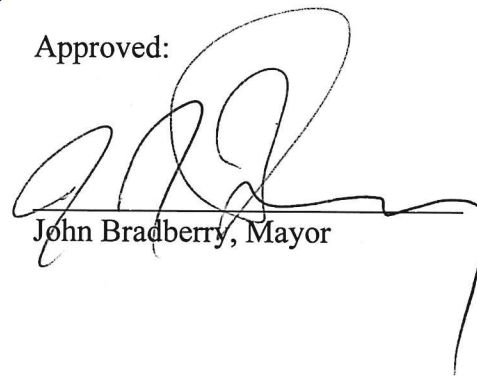
(c) Variance.

- 1) Variances consideration. Variances will be considered only in the following cases:
 - a. When a property's shape, topography or other physical conditions existing in December 1990 prevent land development unless a buffer variance is granted.
 - b. Unusual circumstances when strict adherence to the minimal buffer requirements would create an extreme hardship. Hardships shall be evaluated in accordance with the following:
 1. If the applicant complies with the buffer widths and required practices, he or she cannot make reasonable use of his or her property. Merely proving that

- the variance would permit a greater profit from the property shall not be considered adequate justification for a variance;
2. The variance is the minimum possible deviation from the buffer widths that shall make reasonable use of the property possible;
 3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, and the applicant did not cause the hardship;
 4. The variance is in harmony with the general purpose and intent of the DNR Water Supply Watersheds;
 5. In granting the variance, the public safety and welfare have been assured, and the quality of downstream water, including but not limited to water used to supply public drinking water, has been maintained or improved; and
 6. The applicant certifies that the applicant has not and does not intend to apply for a variance from the minimum buffer requirements contained in the Georgia Erosion and Sedimentation Control Act for the same stream(s) for which a variance is sought pursuant to this section.
- 2) Variance procedure. At a minimum, variance applications shall include all the information required in Section 109-118(b)(3)a. Variances shall be submitted and processed in accordance with Section 22.13. of the Zoning Ordinance.
- 3) Mitigation. Mitigation measures are required to offset the effects of any proposed encroachment on the parcel.
- 4) Septic Tanks. No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

SO ORDAINED, this 26th day of September, 2022.


Approved:



John Bradberry, Mayor

Approved as to Form:

ATTEST:




Allison Tarpley, City Clerk


E. Ronald Bennett, Jr., City Attorney

(Seal)