

# Gilmer County Code Chapter 86

## WATERWAYS

*Cross references: Community development, ch. 26; parks and recreation, ch. 38; planning, ch. 42; land development ordinance general provisions, ch. 58; buildings and building regulations, ch. 66; environment, ch. 70; floods, ch. 74; manufactured homes and trailers, ch. 78; subdivisions, ch. 82.*

*State law references: Protection of natural resources, environment, O.C.G.A. § 12-2-8.*

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## Article III. Wetlands Protection

### Division 1. Generally

#### Sec. 86-61. General provisions.

(a) Findings of fact. The wetlands in the county are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. In their natural state, wetlands serve man and nature. The wetlands in the county provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the economic well being of many communities within the state. Nationally, a considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare.

(b) Purpose. The purpose of this article is to promote wetlands protection, while taking into account varying ecological, economic development, recreational and aesthetic values. Activities that may damage wetlands should be located on upland sites to the greatest degree practicable as determined through a permitting process.

(c) Authority. This article is enacted pursuant to the authority contained in Ga. Const. art. IX, § II, ¶ I, and art. IX, § II, ¶ III, and O.C.G.A. §§ 12-2-8(b), 50-8-2(a)(18)(B) and 50-8-7.1(b).

(d) Jurisdiction. This article shall apply to the unincorporated areas of the county and to any incorporated area electing to adopt this article.

(e) Interpretation. This article shall be interpreted in conjunction with federal, and state rules, regulations and laws, and other county ordinances contained or referenced in this article.

*(Ord. of 2-8-2001(2), § I)*

#### Sec. 86-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Generalized wetlands map means the current U.S. Fish and Wildlife Service National Wetlands Inventory maps for the county.

Jurisdictional wetland means an area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Jurisdictional wetland determination means a delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, 33 USC 1344, as amended.

Regulated activity means any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the United States excepting those activities exempted in Section 404 of the Federal Clean Water Act.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The ecological parameters designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

Written notification. means the notice as to applicant shall be given in writing and mailed by certified mail, return receipt requested, to the last known mailing address submitted by applicant to the land development officer. Notice as to the land development officer shall be given in writing and mailed by certified mail, return receipt requested, or delivered personally to and a receipt obtained from the land development officer.

*(Ord. of 2-8-2001(2), § II)*

*Cross references: Definitions generally, § 1-3.*



**Sec. 86-63. Establishment of the wetlands protection district.**

(a) The wetlands protection district is hereby established which shall correspond to all lands within the jurisdiction of the county that are mapped as wetland areas by the U.S. Fish and Wildlife Service National Wetlands Inventory Maps. This map shall be referred to as the generalized wetlands map and is hereby adopted by reference and declared to be a part of this article, together with all explanatory matter thereon and attached thereto.

(b) The generalized wetlands map does not represent the boundaries of jurisdictional wetlands within the county and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this article does not relieve the landowner from federal or state permitting requirements.

*(Ord. of 2-8-2001(2), § III)*

**Sec. 86-64. Protection criteria requirement for local permit or permission.**

No regulated activity will be permitted within the wetlands protection district without written permission or a permit from the land development office. If the area proposed for development is located within 50 feet of a wetlands protection district boundary, as determined by the land development officer using the generalized wetlands map, a U.S. Army Corps of Engineers determination shall be required. If the U.S. Army Corps of Engineers determines that wetlands are present on the proposed development site, the local permit or permission will not be granted until a Section 404 Permit or letter of permission is issued.

*(Ord. of 2-8-2001(2), § IV)*

**Sec. 86-65. Permitted uses.**

The following uses shall be allowed as of right within the wetlands protection district to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, and provided they do not

require structures, grading, fill, draining, or dredging except as provided in this article. (The activities listed in this section are exempted from Section 404 regulations provided they do not have impacts on a navigable waterway that would necessitate acquisition of an individual Section 404 permit. However, under Section 10 of the Rivers and Harbors Act, a permit may be required in some circumstances.)

(1) Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of the state or of the United States in such a way that would require an individual Section 404 permit.

(2) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.

(3) Forestry practices applied in accordance with best management practices approved by the state forestry commission and as specified in Section 404 of the Clean Water Act.

(4) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the state department of agriculture.

(5) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural best management practices are followed.

(6) Education, scientific research, and nature trails.

*(Ord. of 2-8-2001(2), § V)*

**Sec. 86-66. Prohibited uses.**

The following uses are not permitted within the wetlands protection district:

(1) Receiving areas for toxic or hazardous waste or other contaminants;

(2) Hazardous or sanitary waste landfills.

*(Ord. of 2-8-2001(2), § VI)*

*Secs. 86-67--86-90. Reserved.*



## Division 2. Administration and Enforcement Procedures

### Sec. 86-91. Site plans.

Application for a local development permit within the wetlands protection district shall include a site plan, drawn at a scale of one inch equals 50 feet by a registered land surveyor or professional engineer licensed by the state, with the following information:

- (1) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross sectional drawings showing existing and proposed grades. Elevations, horizontal scale, and vertical scale must be shown on the cross sectional drawings.
- (2) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
- (3) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.
- (4) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
- (5) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.
- (6) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
- (7) All proposed temporary disruptions or diversions of local hydrology.
- (8) The site plan shall contain a surveyor's or engineer's certification that the project site is or is not located within a water supply watershed district, a wetlands protection district, the Coosawattee River Corridor Protection District or the mountain protection district, as applicable.

*(Ord. of 2-8-2001(2), § VII(A))*

### Sec. 86-92. Activities to comply with site plan.

All development activities or site work conducted after approval of the site plan shall conform with the specifications of such site plan. Significant changes to the site plan that would, alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill, or removal of the overall appearance of the development as proposed, can be amended only with the approval of the land development officer or designated appointee. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

*(Ord. of 2-8-2001(2), § VII(B))*

### Sec. 86-93. Exemptions to site plan requirements.

The following activities and developments are exempt from the requirement for detailed site plans: Repairs to a facility that are part of a previously approved and permitted development.

*(Ord. of 2-8-2001(2), § VII(C))*

### Sec. 86-94. Powers of the land development officer.

(a) The land development officer shall have the power to enforce the provisions of this article. The land development officer shall have the authority to issue stop work orders and cite violators of this article to court.

(b) The land development officer shall have the power to conduct investigations as reasonably deemed necessary to carry out his duties of enforcing this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the site.

*(Ord. of 2-8-2001(2), § VII(D))*

*Cross references: Officers and employees, § 2-91 et seq.*



**Sec. 86-95. Review procedures.**

The application shall be made to the land development officer or designated appointee and will be reviewed within 30 days. At the time of the application, the applicant shall pay a filing fee as specified by the board of commissioners. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the land development officer or designated appointee. The applicant will receive written notification of the findings of the land development officer or designated appointee. Decisions of the land development officer or designated appointee may be appealed to the board of commissioners.

*(Ord. of 2-8-2001(2), § VII(E))*

**Sec. 86-96. Duration of permit validity.**

The development permit approval shall be valid for one year from the date of approval. If substantial work has not been done on the development within this time period, the development permit approval shall be null and void.

*(Ord. of 2-8-2001(2), § VII(F))*

**Sec. 86-97. Penalties and fines for noncompliance.**

(a) When a building or other structure has been constructed in violation of this article, the violator shall be required to remove the structure at the direction of the director of license and permits and/or the land development officer.

(b) When removal of vegetative cover, excavation, or fill has taken place in violation of this article, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the direction of the land development officer.

(c) If the land development officer discovers a violation of this article that also constitutes a violation of any provision of the Clean Water Act as amended, the land development officer shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.

(d) Any person who violates any provision of this article, or any permit condition or limitation established pursuant to this article shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-9. Other ordinances incorporated in this article may specify other penalties which shall govern over this section.

*(Ord. of 2-8-2001(2), § VII(G))*

**Sec. 86-98. Suspension and revocation of permit.**

The land development officer or designated appointee may suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The land development officer or designated appointee shall issue written notification of denial, issuance, conditional issuance, revocation or suspension to the applicant.

*(Ord. of 2-8-2001(2), § VII(H))*

**Sec. 86-99. Administrative appeals.**

(a) Any party aggrieved by any decision of the land development officer may within 30 days thereafter appeal therefrom to the board of commissioners. The appellant shall furnish the land development officer a written notice of appeal specifying the judgement of decision from which appeal is taken.

(b) A decision by the board of commissioners shall be the final administrative appeal and their decision shall be carried out by the land development officer.

*(Ord. of 2-8-2001(2), § VII(I))*

**Sec. 86-100. Judicial review.**

All final decisions of the board of commissioners concerning denial, approval, or conditional approval of a permit shall be reviewable in the superior court of the county.

*(Ord. of 2-8-2001(2), § VII(J))*



## Article IV. Water Supply Watershed Protection

### Division 1. Generally

#### Sec. 86-131. General provisions.

(a) Findings of fact. In order to provide for the health, safety, and welfare of the public and a healthy economic climate within the 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 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 surface can introduce toxins, 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.

(b) Purpose. The purpose of this article is to establish measures to protect the quality and quantity of the present and future water supply of the county; to minimize the transport of pollutants and sediment to the water supply; and to maintain the yield of the water supply watershed. This article shall apply to all existing and proposed water supply watersheds within the county.

(c) Authority. This article is enacted pursuant to the authority contained in Ga. Const. art. IX, § II, ¶ I, and art. IX, § II, ¶ III, and O.C.G.A. §§ 12-2-8(b), 50-8-2(a)(18)(B) and 50-8-7.1(b).

(d) Jurisdiction. This article shall apply to the unincorporated areas of the county and to any incorporated area electing to adopt this article.

(e) Interpretation. This article shall be interpreted in conjunction with federal and state rules, regulations and laws, and other county ordinances contained or referenced in this article.

*(Ord. of 9-23-1999(10), § I)*

#### Sec. 86-132. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Buffer** means a natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas, located adjacent to reservoirs or perennial streams within a water supply watershed.

**Corridor** means all land within the buffer areas established adjacent to reservoirs or perennial streams within a water supply watershed and within other setback areas specified in section 86-133.

**Impervious surface** means a manmade structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, or patios.

**Large water supply watershed** means a watershed containing 100 square miles or more of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.

**Perennial stream** means a stream that flows throughout the whole year as indicated on a USGS Quadrangle map. **Reservoir boundary** means the edge of a water supply reservoir defined by its normal pool level.

**Small water supply watershed** means a watershed that contains less than 100 square miles of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.

**Utility** means 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 or other utilities identified by a local government.

**Water supply reservoir** means a governmentally owned impoundment of water for the primary purpose of providing water to one or more governmentally owned public drinking water systems. This excludes the multipurpose reservoirs owned by the U.S. Army Corp of Engineers or the Tennessee Valley Authority.



Water supply watershed means the area of land upstream of a governmentally owned public drinking water intake.

Written notification means the notice to the applicant which shall be given in writing and mailed by certified mail, return receipt requested, to the last known mailing address submitted by applicant to the land development officer. Notice as to the land development officer shall be given in writing and mailed by certified mail, return receipt requested, or delivered personally to and a receipt obtained from the land development officer.

*(Ord. of 9-23-1999(10), § II)*

*Cross references: Definitions generally, § 1-3.*

### **Sec. 86-133. Establishment of a water supply watershed district.**

(a) The Ellijay River, the Coosawattee River, and the Cartecay River water supply watershed districts are hereby designated and shall comprise the land that drains to the City of Ellijay public water supply intakes and the City of Chatsworth (Murray County, Georgia) public water supply intake.

(b) The boundaries of these water supply watershed districts are defined by the ridgelines of the respective watersheds and the boundary of a radius of seven miles upstream of the respective public water supply intakes or reservoirs. These districts shall be further delineated and defined on the water supply watershed protection district map of the county. The water supply watershed protection district map is hereby incorporated into and made a part of this article by reference.

(c) The following water supply watershed districts and reservoirs are hereby defined and the boundaries shall be identified on the water supply watershed protection district map.

(1) The Coosawattee River is a large water supply watershed. An intake for the City of Chatsworth is located on Carters Lake which is fed by the Coosawattee River. This water supply watershed does not contain a reservoir as defined by this article.

(2) The Cartecay River is a large water supply watershed. An intake for the City of Ellijay is located on this river. This water supply watershed does not contain a reservoir as defined by this article.

(3) The Ellijay River is a small water supply watershed. An intake for the City of Ellijay is located on this river. This water supply watershed does not contain a reservoir as defined by this article.

*(Ord. of 9-23-1999(10), § III)*

### **Sec. 86-134. Protection criteria.**

(a) The following regulations shall apply to the Coosawattee River and Cartecay River water supply watersheds identified on the adopted map as a large water supply watersheds without a reservoir: New facilities, located within seven miles of a water supply intake or water supply reservoir, which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.

(b) The following regulations shall apply to the Ellijay River water supply watershed identified on the adopted map as a small water supply watershed without a reservoir.

(1) The corridors of all perennial streams within a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir must be protected by the following criteria:

a. A buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.

b. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream bank.

c. Septic tanks and septic tank drainfields are prohibited in the 150-foot setback area as described in subsection (b)(1)b of this section.



(2) The corridors of all perennial streams outside a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir must be protected by the following criteria.

a. A buffer shall be maintained for a distance of 50 feet on both sides of the stream as measured from the stream banks.

b. No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream bank.

c. Septic tanks and septic tank drainfields are prohibited in the 75-foot setback area as described in subsection (b)(2)b of this section.

(3) No more than 25 percent of the land within the water supply watershed protection district may be covered by impervious surfaces.

(4) New facilities which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces in conformance with any applicable federal spill prevention requirements, or the requirements of the Standard Fire Prevention Code.

*(Ord. of 9-23-1999(10), § IV; Res. No. 06-145, 8-10-2006)*

### **Sec. 86-135. Exemptions.**

(a) Land uses existing prior to the promulgation of the water supply watershed protection district. For the purposes of this article a pre-existing use is defined as any land use or land disturbing activity, including all human endeavors directly associated with such use or activity, which, prior to the promulgation of this article falls within one of the following categories.

(1) Is completed;

(2) Is under construction;

(3) Is fully approved by the governing authority;

(4) All materials have been submitted for approval by the governing authority; or

(5) Is zoned for such use and expenditures in excess of \$2,500.00 have been made in preparation for construction in accordance with such zoning.

(b) Mining activities permitted by the state department of natural resources under the Georgia Surface Mining Act of 1968 (O.C.G.A. § 12-4-70 et seq.).

(c) Utilities from the stream corridor buffer and setback area provisions in accordance with the following conditions if the utilities to be located in the buffer or setback areas cannot feasibly be located outside these areas:

(1) The utilities shall be located as far from the stream bank as reasonably possible.

(2) The installation and maintenance of the utilities shall be such to protect the integrity of the buffer and setback areas as best as reasonably possible.

(3) The utilities shall not impair the quality of the drinking water stream.

(d) Specific forestry and agricultural activities in the stream corridor buffer and setback areas in accordance with the following conditions.

(1) The activity shall be consistent with the best management practices established by the state forestry commission or the state department of agriculture.

(2) The activity shall not impair the quality of the drinking water stream.

*(Ord. of 9-23-1999(10), § V)*

*Secs. 86-136--86-150. Reserved.*

## **Division 2. Administration and Enforcement Procedures**

### **Sec. 86-151. Site plans.**

Application for a local development permit within the Coosawattee River, Cartecay River, and Ellijay River water supply watershed districts shall include a site plan, drawn at a scale of one inch equals 50 feet by a registered land surveyor or professional engineer licensed by the state, with the following information:

(1) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross sectional drawings showing existing and proposed grades. Elevations, horizontal scale, and vertical scale must be shown on the cross sectional drawings.



(2) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.

(3) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.

(4) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.

(5) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.

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

(7) All proposed temporary disruptions or diversions of local hydrology.

(8) The site plan shall contain a surveyor's or engineer's certification that the project site is or is not located within a water supply watershed district, a wetlands protection district, the Coosawattee River Corridor Protection District or the mountain protection district, as applicable.

*(Ord. of 9-23-1999(10), § VI(A))*

#### **Sec. 86-152. Activities to comply with site plan.**

(a) All development activities or site work conducted after approval of the site plan shall conform with the specifications of such site plan. Significant changes to the site plan that would, alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill, or removal of the overall appearance of the development as proposed, can be amended only with the approval of the land development officer or designated appointee.

(b) Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

*(Ord. of 9-23-1999(10), § VI(B))*

#### **Sec. 86-153. Exemptions to site plan requirements.**

The following activities and developments are exempt from the requirement for detailed site plans: Repairs to a facility that are part of a previously approved and permitted development.

*(Ord. of 9-23-1999(10), § VI(C))*

#### **Sec. 86-154. Powers of the land development officer.**

(a) The land development officer shall have the power to enforce the provisions of this article. The land development officer shall have the authority to issue stop work orders and cite violators of the this article to court.

(b) The land development officer shall have the power to conduct investigations as reasonably deemed necessary to carry out his duties of enforcing this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the site.

*(Ord. of 9-23-1999(10), § VI(D))*

*Cross references: Officers and employees, § 2-91 et seq.*

#### **Sec. 86-155. Review procedures.**

The application shall be made to the land development officer or designated appointee and will be reviewed within 30 days. At the time of the application, the applicant shall pay a filing fee as specified by the board of commissioners. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the land development officer or designated appointee. The applicant will receive written notification of the findings of the land development officer or designated appointee. Decisions of the land development officer or designated appointee may be appealed to the board of commissioners.

*(Ord. of 9-23-1999(10), § VI(E))*



**Sec. 86-156. Duration of permit.**

The development permit approval under this article shall be valid for one year from the date of approval. If substantial work has not been done on the development within this time period, the development permit approval shall be null and void.

*(Ord. of 9-23-1999(10), § VI(F))*

**Sec. 86-157. Penalties and fines for noncompliance.**

(a) When a building or other structure has been constructed in violation of this article, the violator shall be required to remove the structure at the direction of the land development officer.

(b) When removal of vegetative cover, excavation or fill has taken place in violation of this article, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the direction of the land development officer.

(c) If the land development officer discovers a violation of this article that also constitutes a violation of any provision of the Clean Water Act as amended, the land development officer shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.

(d) Any person who violates any provision of this article, or any permit condition or limitation established pursuant to this article shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-9. Other ordinances incorporated in this article may specify other penalties which shall govern over this section.

*(Ord. of 9-23-1999(10), § VI(G))*

**Sec. 86-158. Suspension; revocation.**

The land development officer or designated appointee shall suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The land development officer or designated appointee shall issue written notification of denial, issuance, conditional issuance, revocation or suspension to the applicant.

*(Ord. of 9-23-1999(10), § VI(H))*

**Sec. 86-159. Administrative appeals.**

(a) Any party aggrieved by any decision of the land development officer may within 30 days thereafter appeal therefrom to the board of commissioners. The appellant shall furnish the land development officer a written notice of appeal specifying the judgement of decision from which appeal is taken.

(b) A decision by the board of commissioners shall be the final administrative appeal and their decision shall be carried out by the land development officer.

*(Ord. of 9-23-1999(10), § VI(I))*

**Sec. 86-160. Judicial review.**

All final decisions of the board of commissioners concerning denial, approval, or conditional approval of a permit shall be reviewable in the superior court of the county.

*(Ord. of 9-23-1999(10), § VI(J))*

**Sec. 86-161. Amendments.**

This article and the Coosawattee River, Cartecay River, and the Ellijay River water supply watershed districts map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.

*(Ord. of 9-23-1999(10), § VI(K))*

**Sec. 86-162. Relief assessment.**

Assessors and boards of assessors shall consider the requirements of this article in determining the fair market value of land.

*(Ord. of 9-23-1999(10), § VI(L))*

**Sec. 86-163. Variances.**

(a) When issued. The board of commissioners may authorized, upon appeal in individual cases, variances from the terms of this article as will not be contrary to the public interest. Variances will only be issued in cases where, owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hard-



ship. Such variance may be granted in individual cases of practical difficulty or unnecessary hardship only upon a finding by the board of commissioners that all of the following conditions exist:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
- (2) The application of this article to the particular piece of property would create an unnecessary hardship;
- (3) Relief if granted, would not cause substantial detriment to the wetlands of the county or impair the purposes and intent of this article;
- (4) The special circumstances surrounding the request for a variance are not the result of acts by the applicant;
- (5) The variance is not a request to permit a use of land, buildings or structures that is not permissible in the district involved; and
- (6) The variance will not result in an increase of the impervious surface development beyond the prescribed 25 percent requirement established in section 86-134(b)(3).

(b) Conditions. The board of commissioners may, as a condition of the variance to certain provisions of this article, require that alternative measures be taken by the applicant such that the purposes of this article may be achieved through alternative means.

*(Ord. of 9-23-1999(10), § VI(N); Ord. of 4-26-2001)*

