



Attachment A

Jordan Lake Buffer Rules
Chatham County, NC

Questions and Answers (Q & A) for staff and citizens

The Jordan Lake Nutrient Management Strategy (Jordan Rules) aims to restore, protect and maintain the water quality of Jordan Lake. The rules (15A NCAC 02B.0262 - .0273) became effective August 11, 2009. Session Laws 2009-216 and 2009-484 modified the rules. The rules include riparian buffers, agriculture, nutrient management, stormwater and wastewater. The effective Chatham County Watershed Protection Ordinance (WPO) has been amended as a draft (amended 3/3/10, 9/1/10, 10/27/10 & 11/1/10) with the intent of meeting the minimum Jordan Lake buffer rules. This Q&A document is intended to answer some basic questions about these new amendments in the existing WPO.

Q1: Where do the Jordan Buffer Rules apply?

A1: *The Jordan Lake Watershed is all of the drainage area flowing into Jordan Lake within unincorporated Chatham County. The JL watershed size is 251 square miles (161,010 acres) or 36% of Chatham County. Please see attached Watershed Protection Map of Chatham County, NC. The map (and the WPO) are downloadable at the following url:*

<http://www.chathamnc.org/WatershedReviewBoard/>

Q2: What is meant by Zone 1 and Zone 2?

A2: *Riparian buffer “Zones” were created by the state. **They only apply in the JL Watershed.** Zone 1 is the first 30 feet of riparian land from the stream bank “landward” (measured perpendicular from the stream flow direction) . Zone 2 is the next 20 feet of riparian land, measured landward. These zones have different regulations. Together, they make up the 50 foot minimum riparian buffer that the state mandates regulating. However, the county rules exceed 50 feet for perennial streams and other streams within 2,500 feet from “River Corridors”; (100 feet wide), so for this case only, Zone 1 is the first 30 feet landward and Zone 2 is the outer 70 feet landward, for a total of a 100 foot riparian buffer. The state Zone rules also apply to buffers of ephemeral streams, seeps, springs, perennial waterbodies and wetlands within the JL Watershed only.*

Q3: What is a “Perennial Waterbody”?

A3: *A perennial waterbody is a pond or lake that has at-least an intermittent stream flowing into or out of it. **It is not a farm pond that has no stream connected to it.** This is*

a new term in the definitions required by the JL Rules. They have a 50 foot wide buffer. They apply county-wide. (Note: Our to-date countywide policy has been the same as this definition and with a 50 foot buffer due to the same or similar hydrologic connectivity function as wetlands, but it is now added in the ordinance as a separately classified surface water feature.)

Q4: How will these rules change the current requirements for getting a surface water evaluations done for a development application and what are some of the key differences from the existing county (local) buffer rules?

A4: *This will not change the field evaluation procedures for surface water classifications already in place. The same policies, field procedures and rules apply as before.*

*The key difference is where you propose to impact/disturb the buffer more than the "Table of Uses" allow (see below). Here, three (3) categories exist: "exempt", "allowable" and "allowable with mitigation". "Exempt" means that as long as you otherwise meet the guidelines and BMP's for doing that activity, it is ok to do the activity in the buffer; "allowable" means you may do the activity in the buffer if you apply for and receive a "**no practical alternatives**" certification and; "allowable with mitigation" means you may do the activity if you receive the above certification and obtain the required mitigation credits. Therefore, "**no practical alternatives**" certification and/or "**mitigation**" represent a key difference from the existing local buffer rules. There is also no planned fee increases to have a surface water evaluation (eg: "stream call") services due to these new rules. The WPO amendments also include a new Section 304 (J) specifically for buffer rules within the Jordan Lake Watershed. See below.*

Q5: What do mean by disturb the buffer more than they allow?

A5: *See Section 304 (J) 3. Table of Uses: As an example, if you want to build a single-family residential lot driveway over a surface water in the Jordan Lake watershed, as long as you disturbed 25 linear feet or less or 2,500 square feet of buffer or less, there would be no change of requirements from the current requirements whatsoever. However, if you disturbed more than 25 linear feet or 2,500 square feet of buffer, you would be required to apply for and receive a "**no practical alternative**" certification. For larger projects like subdivisions, the same "**no practical alternatives**" certification is required for cumulatively disturbing 150 linear feet or less or; one-third of an acre or less of disturbance of the riparian buffer. Also for subdivision, if you cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer, you would be required to receive "**no practical alternatives**" certification and you would be required to do "**mitigation**".*

Q6: How often do you think that "no practical alternatives" or "mitigation" would be required?

A6: *It depends on the amount of Jordan Lake Watershed riparian buffer disturbance you are proposing. For instance, it is likely that most single-family driveways can be designed and constructed to impact no more than 25 linear feet assuming the topography is not too steep and other factors. Therefore, no certification is required. For DOT standard roads or even private roads built to Chatham County standards (eg: Fire Code,*

Subdivision road standards, etc.), you will very likely impact more than 25 linear feet of riparian buffer so the “no practical alternatives” certification would likely be required.

Q7: What about utility crossings?

A7: *The same type of standards apply with aerial electric crossing as driveway crossings. For all other utility crossings, the “no practical alternatives” certification is required for almost all types of crossings.*

Q8: What is required for the “no practical alternatives” certification and what does it cost?

A8: *Section 304 (I) describes how to make this determination. It has been in the WPO all along but it is likely it will become utilized in the Jordan Lake Watershed with these new rules. The Watershed Review Board (WRB) or a delegated authority will make the determination. (Note: The WRB has determined that the Watershed Administrator will receive all requests for no practical alternatives (and mitigation activities described below) and will either issue a certificate or deny the request. If the applicant wishes to appeal a denial, they can take it to the WRB for a final decision. The WRB will be kept up-dated of all requests submitted to the Watershed Administrator. Other than general project information, the submittal for a no practical alternatives certification must include “an explanation of why this plan for activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality and; provide plans for and best management practices (BMP’s) proposed to control the impacts associated with the activity.” There is currently no fee proposed to apply for a “no practical alternatives” certification.*

Q9: Are there allowable uses in the riparian buffers?

A9: *Yes, Sections 304 (F) and (J) include allowable uses. The WPO always has had provisions allowing for all types of uses, especially for stream crossings for roads, utilities, driveways, etc. Septic fields are allowed in the buffer (outside of 50’) by state law where there is no practical alternative. The county strives to be reasonable and work the property owner to meet their needs and be within the ordinance language. If there is ever a problem, exemptions and variances are available to remedy the problem. Agriculture and silviculture (tree harvesting) practices are exempt as long as they meet their respective BMP guidelines for that use.*

Q10: Do exemptions and variances apply?

A10: *Yes, the WPO always has had provisions for exemptions and variances and the revised ordinance has new exemptions and variances that apply within the Jordan Lake Watershed: Section 304 (J) 5. and 6. The WPO states the exemption and variance criteria for within and for outside of the Jordan Lake Watershed.*

Q11: What is mitigation?

A11: *Section 305: Mitigation generally means you have an approval from the Watershed Review Board or delegated authority to “replace” an impact in the riparian buffer*

somewhere close-by (within the same sub-watershed). This impact has to meet the threshold set in the Table of Uses described above in order to have to mitigate. Mitigation options generally include: payment of a compensatory mitigation fee to the EEP or a private mitigation bank; donation of in-kind real property or restoration or enhance of a non-forested riparian buffer. See the WPO for details on each of these options.

Chatham County WPO Riparian Buffer Width Review:

- **Ephemeral Stream:** 30' landward from top of bank (Zone 1 in JL Watershed only)
- **Intermittent Stream:** 50' landward from top of bank (Zone 1 is first 30', Zone 2 is outer 20' in JL Watershed only)
- **Perennial Stream:** 100' landward from top of bank (Zone 1 is first 30', Zone 2 is outer 70' only in JL Watershed)
- **Wetlands:** 50' from edge of delineated wetland boundary. (Zone 1 is first 30', Zone 2 is outer 20' only in JL Watershed)
- **Seeps and Springs:** 30' landward from delineated boundary. (Zone 1 in JL Watershed only)
- **Perennial Waterbody:** 50' landward from delineated boundary. (Zone 1 is first 30', Zone 2 is outer 20' only in JL Watershed)

Note: As with all new ordinances and text amendments to existing ordinances, items will have to be administratively carried out and reviewed periodically to determine if adjustments to provisions are warranted. This is also the case for these amendments.

For any further questions, please contact Fred Royal, PE, Director, Chatham County Environmental Resources Division: (919) 542-8268 or fred.royal@chathamnc.org.