



## CITY OF DUNWOODY

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### MEMORANDUM

**To:** Mayor and City Council

**From:** Jennifer Peterson, Community Development Director

**Date:** May 11, 2009

**Subject:** **Development & Environmental Code – Article 2  
Stream Buffer Variance Request Language Amendment**

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This item is a first reading of proposed amendments Article 2. Second reading and required public hearing are scheduled for May 11<sup>th</sup>.

Also, at the request of the Mayor and members of Council, staff has modified the language associated with the ability to request variances to the stream buffer. DeKalb County codes required a 75-foot buffer with the ability to request variances to within 25-feet of the stream bank. In December the Council adopted the code with changes to limit the ability to request variances to within 50-feet of the stream bank, but no closer. Since the adoption of that language staff has had a number of meetings with property owners that seek to do work within 75-feet of the bank, and they do not have the right to make a request for relief due to hardships. Staff recommends Council modify the language to return to the original County language. This would allow requests for relief to be heard by the Zoning Board of Appeals

**AN ORDINANCE AMENDING CHAPTER 14 OF THE CITY OF DUNWOODY CODE  
OF ORDINANCES BY MAKING IT CONSISTENT WITH LATEST STATE  
REQUIREMENTS**

**WHEREAS,** the City of Dunwoody has heretofore adopted an ordinance for Land Development and Environmental Protection, as set forth in Chapter 14 of the Code of the City of Dunwoody (the “Code”); and

**WHEREAS,** the provisions of Article 2 of Chapter 14 do not currently allow the Board of Zoning Appeals to issue variances within a certain distance of a stream bank; and

**WHEREAS,** A Public Hearing is being held on May 11, 2009 pursuant to State Law to allow for comments to the proposed changes to Article 2 of Chapter 14; and

**WHEREAS,** the Mayor and City Council have determined that it may be appropriate to amend Article 2 of Chapter 14 to allow for the Board of Zoning Appeals to issue variances within twenty-five feet of a stream bank.

**THEREFORE,** Mayor and City Council of the City of Dunwoody hereby ordain as follows:

**Section 1:** Article 2, Section 8(c)(1) of the Land Development and Environmental Protection ordinance, Chapter 14 of the City of Dunwoody Code of Ordinances, is hereby amended as follows:

(c) Variances.

- (1) Except as further limited herein, an applicant may request a variance from the terms of the requirements of Sections 10, 11, 13, and 14 of this Article. The Board of Zoning Appeals shall be authorized to hear variance requests. The Zoning Board of Appeals shall have no power to consider or to grant variances which are the responsibility of the Director of the Environmental Protection Division pursuant to O.C.G.A. § 12-2-8 and other relevant State statutes and regulations. The Board of Zoning Appeals is authorized to consider applications for variances pursuant to this section within the seventy-five-foot stream buffer required at Section 14(i)(2) of this Article, but not within the twenty-five-foot state buffer zone adjacent to waters of the state set forth in Section 11(b)(4) of this Article, ~~nor within fifty feet of the stream bank~~. Where variances involving the same project are requested from both the Director of the Environmental Protection Division and the Director of Community Development, the Director of Community Development shall take no action on any such request for variance until the Director of the Environmental Protection Division grants the variance or otherwise approves the request pending before the Environmental Protection Division. Receiving a variance from the Director of the Environmental Protection Division does not obligate the Board of Zoning Appeals to permit the project to proceed if the project does not also meet all the other requirements of this Article. No variance from the provisions of

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**ORDINANCE 2009-05-28**

Chapter 14 shall be authorized except as specifically authorized in this section or specifically authorized in another section of Chapter 14.

**Section 2:** This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

**SO ORDAINED**, this \_\_\_\_ day of \_\_\_\_\_, 2009.

Approved:

\_\_\_\_\_  
Ken Wright, Mayor

Approved as to Form and Content:

ATTEST:

\_\_\_\_\_  
Sharon Lowery, City Clerk  
(Seal)

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Brian Anderson, City Attorney