

# 2015 Legislative Update



# Zoning

- ▶ Design Standards (p. 1) - The County does not have design standards for residential construction, so there is no impact on county regulations.
- ▶ Definition of Bedrooms and Dwelling Units (p. 3) – Zoning Ordinances cannot use a definition of “dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency.”
  - ▶ Under review by the County Attorney. Possible implications for building plan review, specifically regulation of accessory dwelling units and educational facilities impact fees.
- ▶ Protest Petition (p. 3) – No effect on county regulations.

# Zoning cont.

- ▶ Permit Conditions (p. 4) – Limits conditions on conditional use permits “for which the local government does not have the statutory authority to regulate or for which the courts have held to unenforceable if imposed as a direct regulation.” This should have a limited effect on how the county processes conditional use permits.
- ▶ Permit Choice (p. 5) – Amends GS 143-750 to include zoning in the list of regulations where applicant can choose which rules to follow when regulatory changes are made while they are in the permitting process.

# Zoning cont.

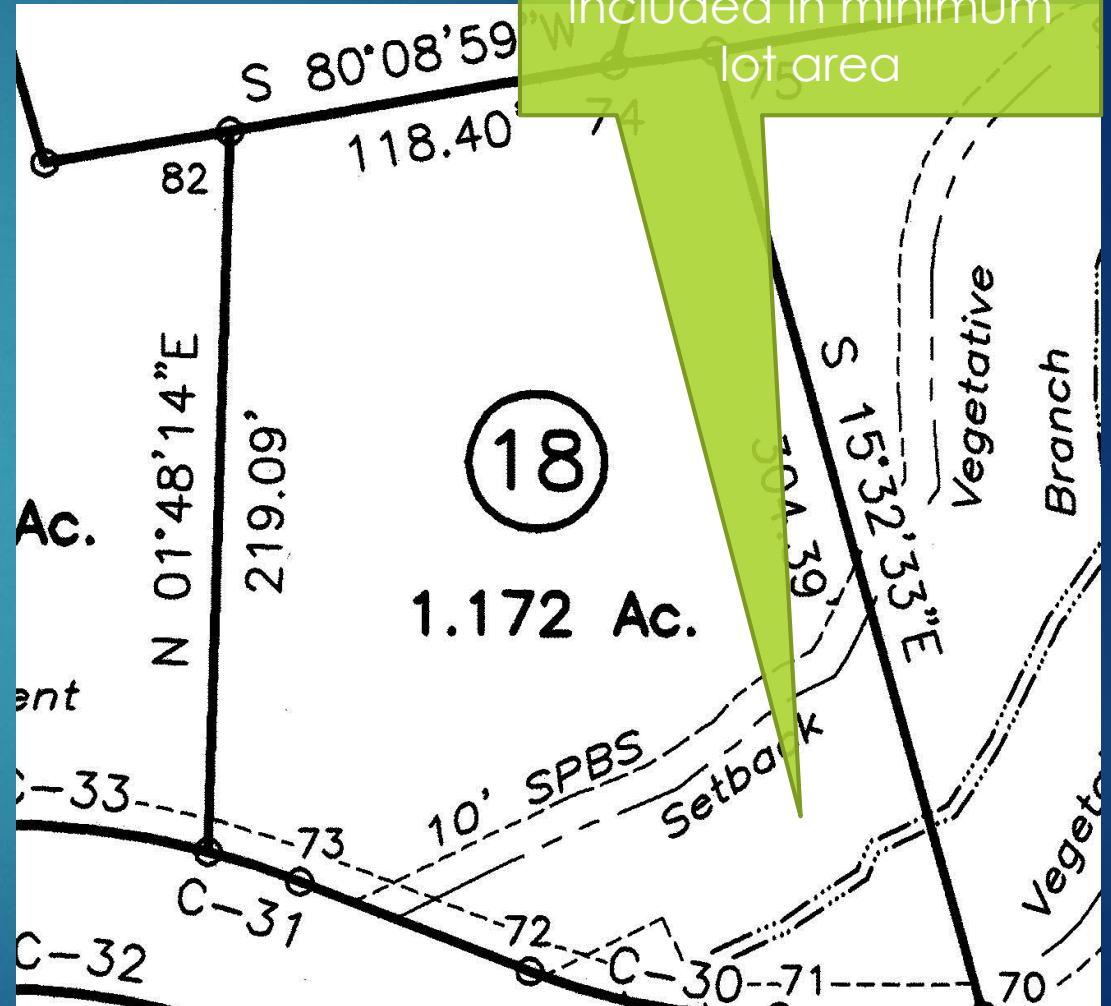
- ▶ Split Jurisdiction (p. 5) – Applies to municipalities where a property is split between municipal and county planning jurisdictions. The city and developer must certify that city rules not applied under coercion or project approval may be withheld if city rules not applied outside the jurisdiction.
- ▶ Beehives (p. 5) – No effect on county regulations.
- ▶ Development Agreements (p. 5) – Removes minimum size requirement and maximum term of agreements.

# Subdivision

- ▶ Performance Guarantees (p. 6)– Changes have been discussed with the BOC and revisions to county regulations are needed.
- ▶ Riparian Buffers (p. 7) – Requires that subdivision regulations count riparian buffers areas towards any dimensional requirements for lot size. The county subdivision regulations currently require that riparian buffer areas be removed from minimum lot size calculations and lot yields for planned residential developments.

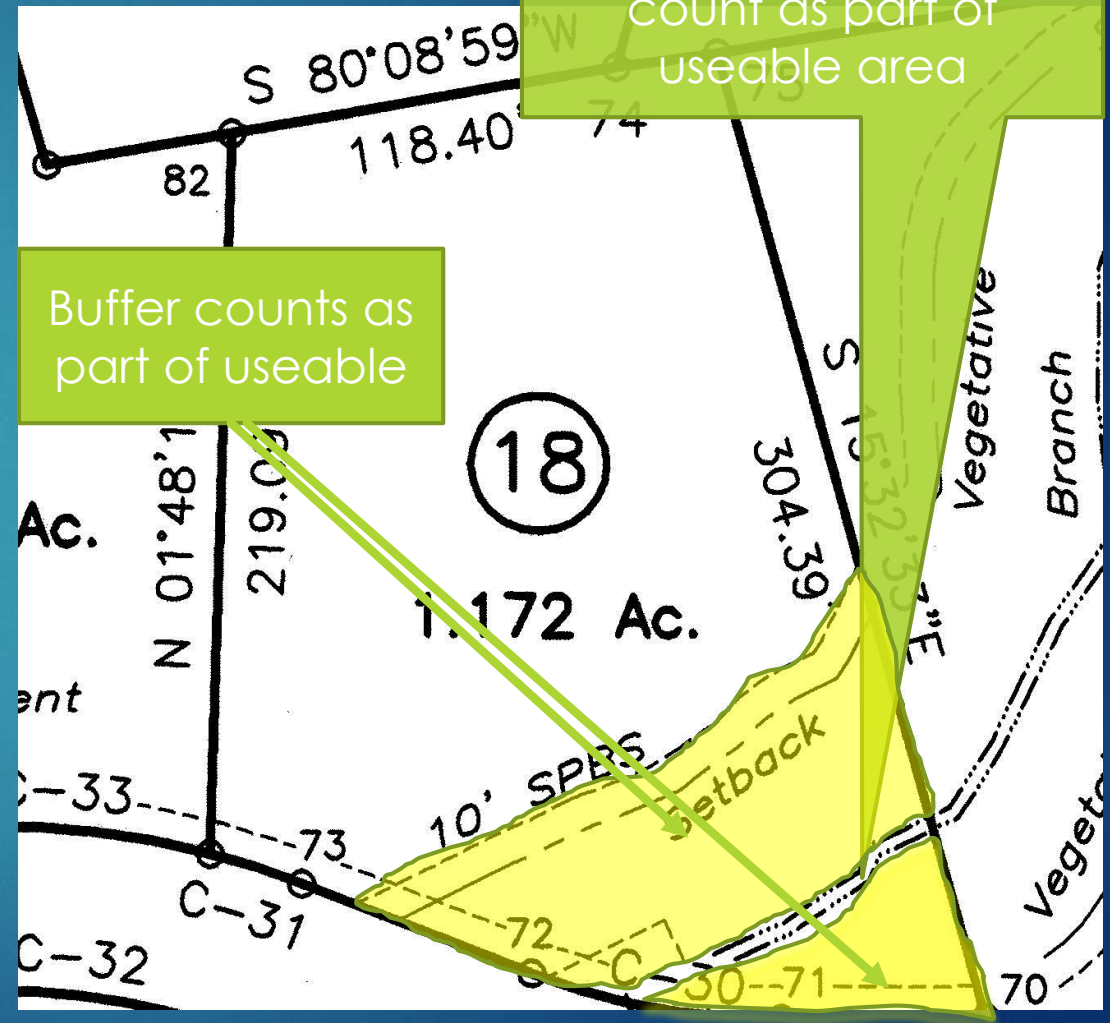
# Riparian buffer example

- ▶ Minimum useable lot area definition – Does not include “public right-of-ways or land within riparian buffers, flood hazard areas, or floodways.”
- ▶ Legislation requires that the riparian buffer area count as part of useable area. The water feature still does not count as part of useable area.



# Riparian buffer example

- ▶ Example: Lot 18 has a minimum of 40,000 square feet of useable area per a note on the recorded plat. The lot size at 1.172ac = 51,052 square feet.
- ▶ The lot size could be reduced by approximately 10,000 square feet under the new legislation.



# Subdivision/Zoning cont.

- ▶ Environmental Impact Statement (p. 7) – First, increases the minimum lot disturbance threshold for environmental documentation from two to ten acres. This effects environmental impact assessment threshold criteria in the Zoning Ordinance and Subdivision Regulations that are currently set at two acres of disturbance for non-residential projects. Second, EIA's can only address the “direct environmental impact of the proposed action.”
  - ▶ Five EIA's submitted for non-residential conditional district rezonings since January 2015.
  - ▶ Four of the projects have less than 10 acres of disturbance.
  - ▶ Current language for addressing impacts – “Anticipated impacts (short-term construction impacts, long-term operation impacts, and indirect or secondary impacts).”



# Misc.

- ▶ Zoning and Subdivision Enforcement (p. 8)
  - ▶ Withholding Permits – No effect on county regulations.
- ▶ Community Appearance and Historic Preservation (p. 8)
  - ▶ Tax Credits – Establishes a new historic preservation tax credit program.
  - ▶ Preservation Grants – Clarification of law allowing local governments to provide grants for historic preservation of publicly or privately owned properties.
- ▶ Construction Fence Signs (p. 9) – No change anticipated for county regulations.
- ▶ Transportation (p. 12)
  - ▶ NCDOT to study the subdivision road acceptance process partly in response to the issues counties are experiencing as a result of the recession and developers leaving roads unfinished or incomplete.
- ▶ Statutory Reorganization: Proposed 160D (p. 17)
  - ▶ The School of Government has indicated that this is a reorganization of the planning statutes and should not have an effect on local regulations.

# Building and Housing Code Enforcement

- ▶ Code Inspection Requirements (p. 9)
  - ▶ Inspections – conduct all inspections requested for each scheduled inspection visit
    - ▶ Could result in less inspections completed daily due to multiple code violations at one location.
  - ▶ Architect and Engineer Approval and Inspections – the inspector has no responsibility to inspect if required approval is received from licensed architects and engineers.
  - ▶ Increase Work Excluded from Building Permit Requirements – Non structural work in single-family residences and farm buildings costing less than \$15,000 are exempt from permit requirements.
  - ▶ Misconduct by Code Officials – to habitually fail to supply requested inspections in a timely manner .
  - ▶ Fees – All fees collected for inspections may be used only for support of administration and activities of the inspection department.
  - ▶ Commercial Buildings – Professional architectural seal is not required if the total value is less than \$90,000 and less than 2,500 square feet.

# Building and Housing Code Enforcement

- ▶ Open Air Cabins (p. 11) – Required to have at least two remote exits and are not required to have plumbing or electrical systems.
- ▶ Overgrown Vegetation (p. 11) - No effect on county regulations.
- ▶ Public Trust Area Enforcement (p. 12) - No effect on county regulations.

# S.L. 2015-246 Section 13

## Riparian Buffers

- ▶ A local government may not enact, implement, or enforce a local government ordinance that establishes a riparian buffer requirement that exceeds riparian buffer requirements necessary to comply with or implement federal or State law or a condition of a permit, certificate, or other approval issued by a federal or State agency.

# Guidance from DEQ

- ▶ **Q1. Does this Section apply to local water supply watershed protection programs? How about NPDES Phase I/Phase II programs?**
- ▶ **A1.** The Division of Water Resources and the Division of Energy, Mineral and Land Resources (Divisions) interpret the session law such that it applies to those local governments who are administering riparian buffer programs under authority delegated to them in accordance with G.S. 143-214.23 (Neuse, Tar-Pamlico, Catawba, Goose Creek) or who are required to administer riparian buffer programs in accordance with Title 15A NCAC 02B .0267 (Jordan Lake) or .0250 (Randleman Lake). The Divisions do not interpret the session law such that it applies to local water supply watershed protection programs or NPDES Phase I/Phase II programs. As such, the Divisions will not be requesting that local governments submit their watershed ordinances or NPDES Phase I/II stormwater ordinances for review and approval as a result of this session law.

# Guidance from DEQ

- ▶ **Q3. Can local governments in the Jordan Lake watershed continue to enforce the 100-foot vegetated buffer on high-density projects as required by the Water Supply Watershed rules?**
- ▶ **A3.** The Divisions interpret the session law such that local governments who are administering the Jordan Lake buffer requirement must continue to implement the 50-foot Jordan Lake buffer, but may not continue to enforce a 100-foot vegetated buffer within the Jordan Lake watershed if that 100-foot buffer requirement is adopted solely to comply with the Water Supply rules, and not as a requirement of another program, permit, certificate, or other approval. Local governments must continue to enforce the minimum 100-foot vegetated buffer for high density projects in Water Supply watersheds outside of the Jordan Lake watershed.

# Effect on Chatham County Watershed Protection Ordinance

- ▶ After consultation with DEQ and the County Attorney, it is still very unclear what response would be required of the County by this Session Law.
- ▶ Our Attorney recommends that we delay action until after the Legislative Short Session to see if any further clarification results.

# S.L. 2015-246 Section 2

## Jordan Lake Rules

- ▶ Session Law 2015-246 modifies city and county statutory authority to prohibit them from requiring compliance with a state rule that the GA has delayed the effective date for.
- ▶ Eleven local governments adopted ordinances and began implementing the Jordan New Development rules voluntarily in 2012 and 2013. (Chatham County was one of these)



# S.L. 2015-246 Section 2

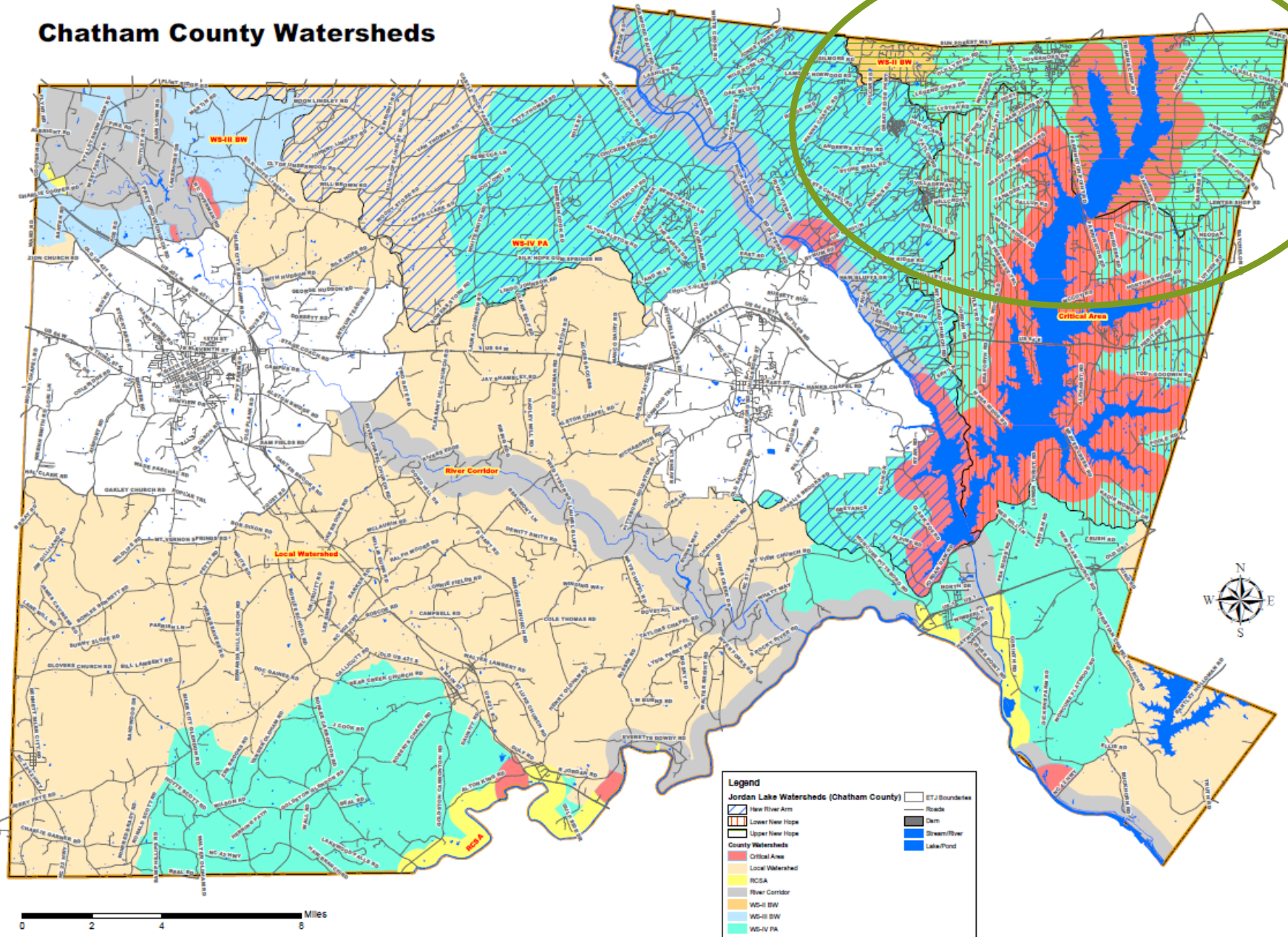
## Jordan Lake Rules

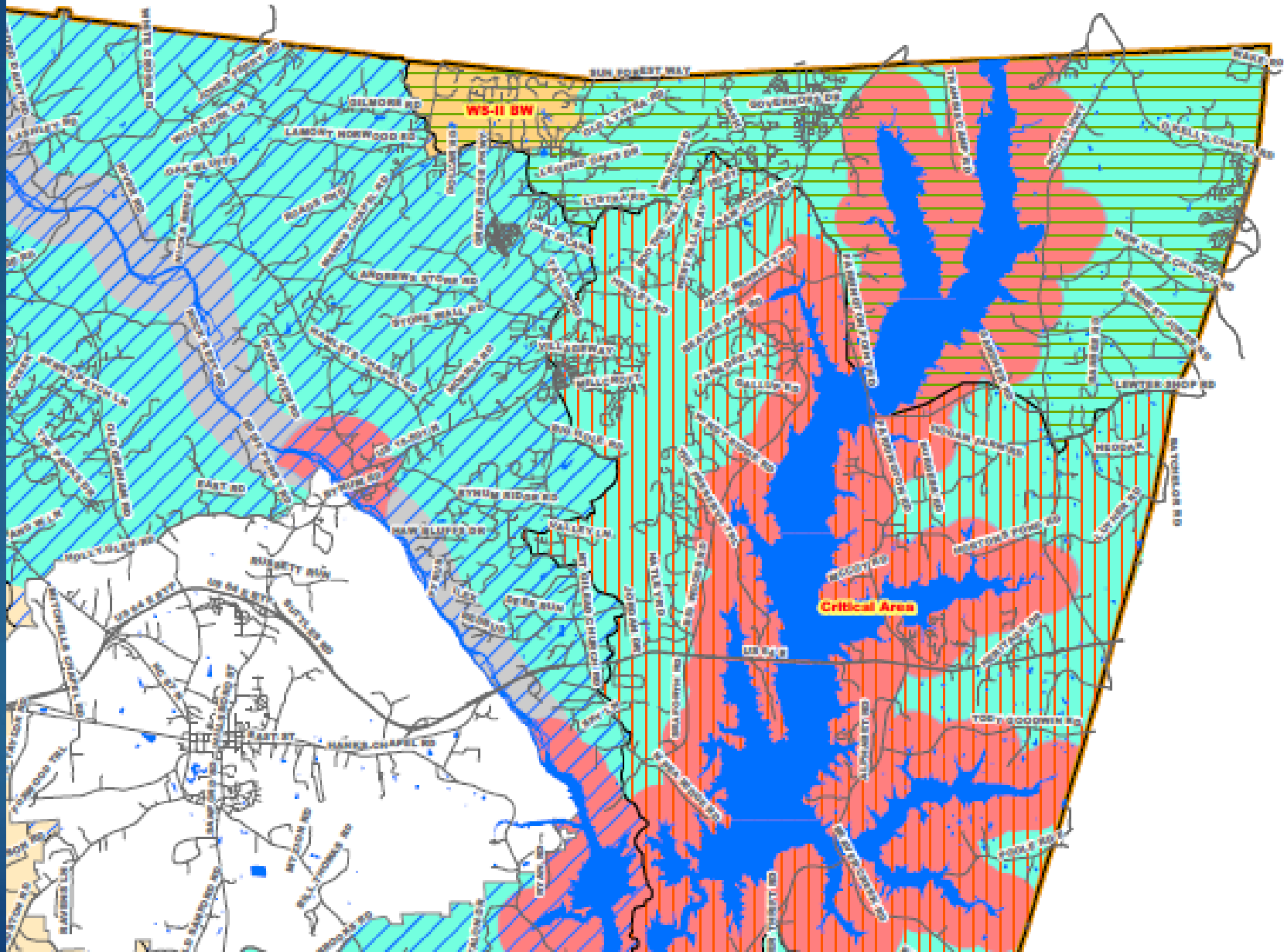
- ▶ Delay of Jordan Rule
  - ▶ Session Law 2012-200 and 2012-201 contained the same provision to extend local program implementation of Jordan New Development rules for two years to August 10, 2014
  - ▶ Session Law 2013-395 delays the implantation of most parts of the Jordan Lake Rules for three years. New Development rule delayed from August 10, 2014 until August 10, 2017
  - ▶ Session Law 2015-241 (Section 14.5(c)) indicates that rules directed to nutrient management and that have been temporarily delayed by the GA are delayed an additional 3 years (so Aug 10, 2020 for Jordan New Development rule).

# Effect on Chatham County Stormwater Ordinance

- ▶ Because Chatham County implemented the Jordan Lake Rules nutrient management requirements voluntarily in August of 2012, the Ordinance will need to be revised to remove reference to the Jordan Lake Rules and the nutrient management requirements.

# Chatham County Watersheds





# References

- ▶ [School of Government 2015 Legislative Bulletin](#)
- ▶ [Session Law 2015-246 \(HB 44\)](#) – Act to Reform Various Provisions of the Law Related to Local Government
- ▶ [Session Law 2015-264 \(SB 119\)](#) – Act to Make Technical Corrections to the General Statutes and Session Laws
- ▶ [Session Law 2015-187 \(HB 721\)](#) – Act to Amend the Laws Related to Land Development
- ▶ [Session Law 2015-90 \(HB 795\)](#) – Act to Reform and Amend the State Environmental Policy Act