

ARTICLE VIII ENVIRONMENTAL PROTECTION PROVISIONS

SECTION 800: INTENT

The purpose and intent of this Article is to establish measures to protect and maintain the quality and quantity of the surface and ground waters of Oglethorpe County in order to provide for the health, safety, and welfare of the public and promote a healthy economic climate by ensuring the present and future water supply of Oglethorpe County and its communities, providing pollution, erosion, and flood control, providing habitat areas for fish, wildlife and vegetation; and providing recreational opportunities.

SECTION 801: RESERVED

SECTION 802: RESERVED

SECTION 803: WETLANDS PROTECTION DISTRICT

803.1 Intent

The wetlands within Maxeys 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. They 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 of Georgia.

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.

It is therefore necessary for the Maxeys Mayor and Council to ensure maximum protection for wetlands by discouraging development activities that may adversely affect wetlands.

The purpose of this section is to promote wetland 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. The objective of this section is to protect wetlands from alterations that will significantly affect or reduce their primary functions for water quality, floodplain and erosion control, groundwater recharge, aesthetic nature, and wildlife habitat.

803.2 District Established

The Wetlands Protection District shall consist of all the wetlands within the jurisdiction of the Town of Maxeys, 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. The Generalized Wetlands Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be a part of this ordinance. The Generalized Wetland Map does not represent the boundaries of jurisdictional wetlands within Maxeys 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 ordinance does not relieve the landowner from federal or state permitting requirements.

803.3 Relationship to Zoning

The Wetland Protection District shall comprise an overlay zone that supplements and is indicated on the Maxeys Zoning Map.

803.4 Assessment Relief

Assessors and boards of assessors shall consider wetland regulations in determining the fair market value of land. Any owner of an undeveloped wetland who has dedicated an easement or entered into a conservation program with the government or a nonprofit organization restricting activities in a wetland shall have that portion of land assessed consistent with those restrictions. Such landowner shall also be exempted from special assessment on the wetland to defray the cost of municipal improvements such as sanitary sewers, storm sewers and water mains.

803.5 Definitions.

1. **Generalized Wetland Map** - The current U.S. Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory Maps for Maxeys, Georgia.
2. **Jurisdictional Wetland Determination** – 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 U.S.C. § 1344, as amended.
3. **Jurisdictional Wetland** - An area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.
4. **Regulated Activity** - 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.
5. **Development Permit** - This shall include building permits, rezoning applications, conditional use permit applications, variance applications, and preliminary and final subdivision plat applications.
6. **Wetlands** - Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and 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 for designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

803.6 Permitted Uses in the Wetlands Protection District

The following uses shall be allowed as of right within a Wetland 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 herein. [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 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 Georgia or of the United States in such a way that would require an individual 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 Georgia Forestry Commission and as specified in Section 404 of the Clean Water Act.
4. The cultivation of agricultural crops, provided such agricultural activities shall be subject to best management practices approved by the Georgia 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.

803.7 Prohibited Uses in the Wetlands Protection District

There shall be no activities permitted within the Wetlands Protection District except as specifically permitted in *Subsection 803.6 Permitted Uses in the Wetlands Protection District*, herein. The following specific prohibited uses and activities are listed for emphasis.

1. Receiving areas for toxic or hazardous waste or other contaminants;
2. Hazardous or sanitary waste landfills.

803.8 Permits

No regulated activity will be permitted within the Wetland Protection District without a permit from the Maxeys Town Council or their designated Official(s). Issuance of a local Development Permit is contingent on full compliance with the terms of this ordinance and any other applicable local, state, and federal regulations.

If the proposed project appears to be near or within a wetlands boundary, the designated Oglethorpe County Planning Official(s) shall compare the proposed project locations to the Generalized Wetlands Map. If the proposed project appears to be within fifty (50') feet of a wetlands boundary, the Designated Official(s) shall refer the developer or applicant to the U. S. Army Corps of Engineers for a determination prior to issuing a local permit. If the U. S. Army Corps of Engineers determines that wetlands are present on the proposed development site and that a Section 404 Permit or Letter of Permission is required, a local Development Permit will be issued only following issuance of the Section 404 Permit or Letter of Permission.

1. Application for a local development permit shall be made pursuant to §803.8, *Permits*, in this ordinance.
2. Along with the permit application, the applicant shall pay a filing fee as specified by the Oglethorpe County Board of Commissioners. Filing fees up to the larger of \$500.00 or \$100.00 per acre may be required to evaluate the application. This fee may be used to retain expert consultants who will provide services pertaining to functional assessment, mitigation and wetland boundary determinations as deemed necessary by the Maxeys Mayor and Council or their designated Official(s).
3. Maxeys Mayor and Council or their designated Planning Official(s) may require a bond up to the larger of \$5,000.00 or \$1,000.00 per acre of project area and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit. The particular amount and conditions of the bond shall be consistent with the purposes of this ordinance. In the event of a breach of condition of any such bond, the Maxeys Mayor and Council or their designee may collect such bond or institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution.
4. The county shall impose conditions on any permit necessary to assure that any adverse impacts upon the functions and values of the wetlands are prevented or kept to a minimum.

803.9 Site Plan Requirements

In addition to the site plan requirements, as specified in §803.8, *Permits*, in this ordinance, or in any other applicable local ordinances or regulations, all applications for a local Development Permit within the Wetlands Protection District shall also include a detailed site plan, drawn at a scale of 1" = 50', 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 two hundred (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 two hundred (200') feet of the site at contour intervals of no greater than two (2') 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.

803.10 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 said site plan. The site plan may be amended only with the approval of the Mayor and Council or their designated Planning Official(s). The Mayor and Council or their designated Planning Official(s) may require additional information deemed necessary to verify compliance with the provisions of this ordinance or to evaluate the proposed use in terms of the purposes of this ordinance.

803.11 Map Amendment

These regulations and the Generalized Wetland Map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information concerning wetland locations, soils, hydrology, flooding or plant species peculiar to wetlands becomes available.

SECTION 804: RESERVED