



CITY of POOLER
— GEORGIA —

STATE OF GEORGIA }
 }
COUNTY OF CHATHAM }

ORDINANCE O2026-8.B
Wetlands Ordinance Revisions

AN ORDINANCE TO AMEND THE CITY OF POOLER CODE OF ORDINANCES CHAPTER 42- ENVIRONMENT, ARTICLE VII- WETLANDS PROTECTION, TO PROVIDE REVISIONS TO STRENGTHEN THE WETLAND PROTECTION REQUIREMENTS TO ALIGN WITH THE GOALS OF THE COMPREHENSIVE PLAN; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Pooler that the Code of Ordinances of the City of Pooler, Georgia are hereby amended as follows:

I

That CHAPTER 42 – ENVIRONMENT, Article VII- Wetlands Protection, be amended by deleting the strikethrough language and adding the underlined text as follows:

ARTICLE VII. WETLANDS PROTECTION

Sec. 42-241. Intent and Purpose.

- (a) The city deems it necessary and desirable in the interest of public health, safety and welfare to enact an ordinance for protecting people from the hazards inherent in developing in wetlands, and to preserve the invaluable services provided by wetlands. Wetlands are fragile natural resources, and the long-term sustainability of the city depends on protecting these natural resources. Homes and other manmade structures built in wetlands are often damaged by flooding and structural failures due to the unique topography, hydrology, and soil conditions of wetland areas. Wetlands impart many invaluable services to the city as they provide habitats for fish, wildlife, and vegetation; they provide water quality improvement, maintenance and pollution control; flood control; erosion control; areas for natural resources education and scientific study; recreational opportunities; and scenic beauty. Preservation of remaining wetlands, whether jurisdictional or non-jurisdictional, supports resilience efforts in anticipation of increased flooding, more frequent and severe weather events, future disasters, and changing environmental conditions and is necessary to maintain their hydrologic, economic, recreational and aesthetic services for existing and future residents of the city, especially considering non-jurisdictional wetlands are no longer protected by federal law.
- (b) The purpose of this ordinance is to provide for the protection, preservation, proper maintenance, restoration and proper use of wetlands and wetland buffers in the city. Proper management of existing natural features, including wetlands and

wetland buffers, and stormwater runoff will minimize damage to public and private property, ensure a functional drainage system, reduce the effects of development on land, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, reduce pollutant loading to the maximum extent practicable and maintain to the extent practicable the pre-developed hydrologic characteristics of the area, facilitate economic development while minimizing associated pollutant, flooding and drainage impacts, and improve the city's resilience to changing environmental conditions. Protection of wetlands include preventing their pollution or contamination, minimizing their disturbance and preventing damage from erosion, siltation and flooding.

- (c) It is the intent of this article that all new site development and redevelopment (residential, commercial, and industrial) be undertaken with a survey of potential wetlands on the portion of land proposed for development and the final placement of the buildings, structures, roads, utilities and other features be designed to minimize the filling or disturbance of wetlands on the property, to integrate wetland protection measures into development decisions and to recognize the importance in preserving and protecting jurisdictional and non-jurisdictional wetlands and wetland buffers.

Sec. 42-241~~2~~. 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:

Delineation Concurrence is an alternative to receiving Jurisdictional Determinations. A DC provides concurrence that the delineated boundaries of wetlands and other aquatic resources on a property are a reasonable representation of aquatic resources on-site. A DC does not address the jurisdictional status of aquatic resources.

Jurisdictional wetland means an aquatic area that meets the requirements for wetlands as determined by the U.S. Army Corps of Engineers that is regulated under the federal Clean Water Act because it has a continuous surface connection to Waters of the United States.

Jurisdictional ~~wetland~~ determination is a two-step process of 1) identifying and locating aquatic resources (including wetlands) on a property, which is referred to as a Delineation, and 2) determining whether those areas are regulated by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. A JD is provided as an official written statement or map signed by the authorized official of U.S. Army Corps of Engineers which states whether or not jurisdictional wetlands are present on a site.

Non-jurisdictional wetlands are aquatic areas not regulated under the federal Clean Water Act because they lack a continuous surface connection to traditional navigable waters. While exempt from federal permits, these areas often retain significant ecological value for flood storage and control, water quality improvement and wildlife habitat and may still be protected by state or local regulations.

Upland is an area of land that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

Wetland is an area that is inundated or saturated by surface or ground water 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.

Wetland Buffer is a transition zone between a wetland and an upland area, designed to protect the wetland's water quality, wildlife habitat, and ecological functions by filtering pollutants, stabilizing soil, and moderating runoff from development. The wetland buffer shall be determined to be the area extending horizontally away from and paralleling the outermost boundary of a wetland.

Wetland delineation means a delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, or other qualified environmental professional, as required by section 404 of the Clean Water Act, 33 USC 1344, as amended.

Wetlands inventory area means wetlands identified on the U.S. Environmental Protection Agency West Chatham County ADID Map of Wetlands and Uplands (ADID map), where available, and, as from time to time amended, or, for property outside the study area defined on the ADID map, wetlands identified on the U.S. Fish and Wildlife Service National Wetlands Inventory (NWI) Map for Chatham County, Georgia, and, as from time to time amended. A wetlands inventory area does not necessarily represent jurisdictional wetlands and cannot serve as a substitute for a jurisdictional wetland determination or a wetland delineation.

Sec. 42-2423. Wetland Assessment Requirements. Administration and enforcement:

- (a) When assessment required. Prior to the issuance of any site development plan approval, subdivision approval, land disturbing activity permit, building permit or demolition permit, an assessment of whether wetlands are present on the subject property is required. This section is intended to provide applicants for a building permit or a demolition permit with notices when the proposed activity may require a department of the army permit due to impact upon jurisdictional wetlands. The provision in subsection (b) of this section shall not apply if the applicant can provide to the building official a valid U.S. Army Corps of Engineers wetland delineation that verifies that the proposed activity is not located within a jurisdictional wetlands, or if the applicant can provide a valid U.S. Army Corps of Engineers permit or letter that authorizes the proposed activity within jurisdictional wetlands. If such evidence of compliance with U.S. Army Corps of Engineers permitting requirements is provided, the building official shall follow normal procedures for issuing a building permit or a demolition permit.
- (b) Assessment. Prior to the issuance of a building permit or a demolition permit, the building official shall assess whether wetlands are present on the subject site of any land disturbing activity application, if the proposed activity is of the type that could result in a disturbance of wetlands or wetland buffers and, if so, shall also assess whether the proposed activity is located within a wetland inventory area or within 100 feet of a wetland inventory area. To assess whether the proposed activity is located within a wetland inventory area or within 100 feet of a wetland inventory area, the building official shall review the property survey submitted with the application for delineated wetlands, consult the then current U.S. Environmental Protection Agency West Chatham County ADID Map of Wetlands and Uplands. If the proposed activity is not located within the study area defined on the ADID map, the building official shall
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and consult the then current U.S. Fish and Wildlife Service National Wetlands Inventory (NWI) Map for the county.

(1) ~~If the building official staff~~ determines that the proposed activity is of a type that is not likely to result in a disturbance of wetlands or wetland buffers or that it does not fall within 100 feet of a wetland inventory area, ~~the building official staff~~ shall follow normal procedures for reviewing and issuing a site development plan approval, subdivision approval, land disturbing activity permit, building or demolition permit.

(2) ~~If the building official staff~~ determines that the proposed activity is of a type that is likely to result in a disturbance of wetlands and or wetland buffers or the proposed activity is located within a wetland inventory area or within 100 feet of a wetland inventory area, a U.S. Army Corps of Engineers Delineation Concurrence or a Jurisdictional wetland Determination shall be required prior to issuance of a site development plan approval, subdivision approval, land disturbing activity permit, a building permit or demolition permit.

a. If the U.S. Army Corps of Engineers determines that a department of the army permit is required, a site development plan, a subdivision plan, a land disturbing activity permit, a building permit or a demolition permit shall be issued only following issuance of the U.S. Department of the Army permit.

b. If the U.S. Army Corps of Engineers determines that the proposed activity would not require a U.S. Department of the Army permit, ~~the building official~~ but there are non-jurisdictional wetlands on site, or within 100 feet of a wetland inventory area, the applicant shall proceed with submitting a City of Pooler Wetland Impact Permit application prior to normal procedures for issuing a site development plan, a subdivision plan, a land disturbing activity permit, a building permit or demolition permit. Non-jurisdictional wetlands that are smaller than 0.1 acre, are completely surrounded by upland, and do not cross property boundaries are exempt from the requirements in this article.

(c) *Effect of assessment.* Wetland inventory areas do not necessarily represent existing wetland boundaries ~~jurisdictional wetlands within the county~~ and cannot serve as a substitute for a formal jurisdictional wetland determination or a wetlands delineation. No permit issued by the city relieves a landowner from federal or state permitting requirements.

Sec. 42-244. Requirements for jurisdictional and non-jurisdictional wetlands.

(a) *Delineation Concurrence or Jurisdictional Determination Required.* If an assessment suggests that wetlands are on-site or within 100 feet of a wetland inventory area, any person proposing to carry out land disturbance or development activity, prior to commencing the activity, shall obtain a wetland delineation by a qualified environmental professional. This delineation shall be sent to the U.S. Army Corps of Engineers for a Delineation Concurrence. If the delineation is verified by the US Army Corps of Engineers, and the wetland or its buffer is not impacted by the proposed development, no further action is required. However, if the verified wetland delineation indicates that the proposed development will impact a wetland or wetland buffer, a Jurisdictional Determination issued by the U.S. Army Corps of Engineers will be required to determine whether the applicant will be subject to the U.S. Army Corps of Engineers processes for wetland impacts. Impacts to jurisdictional wetlands will only be allowed as identified in a required U.S. Army Corps of Engineers Permit.

1. Exceptions. A Delineation Concurrence or Jurisdictional Determination shall not be required if:

i. Staff reviews the NWI Map, and no wetlands are depicted on-site or within 100 feet of a wetland inventory area, and there are no other references suggesting wetlands are present; or

ii. The NWI Map depicts wetlands on-site or within 100 feet of a wetland inventory area, but the wetlands no longer exist due to approved development. The property owner shall provide proper documentation that previous wetland impacts have been permitted and that the depicted conditions align with those records and shall certify, via notarized affidavit, to the city that to the best of their knowledge and belief, there are no wetlands or wetland buffers on site.

(b) Wetland Buffer Required. A minimum buffer of twenty (20) feet shall be provided along the perimeter of all jurisdictional and non-jurisdictional wetlands. The buffer shall remain in a healthy, natural, undisturbed vegetated state. Where existing buffer areas are lawn, fill, bare ground or otherwise degraded, buffers shall be supplemented with a native mix of trees and shrubs appropriate to the specific type of wetland. A landscaping plan shall be submitted identifying what exists and what supplemental plantings are proposed in the buffer.

(c) City of Pooler Wetland Impact Permit Required. If a Jurisdictional Determination verifies there are non-jurisdictional wetlands on-site, and the applicant proposes impacts to the non-jurisdictional wetlands or its buffer, the applicant must submit a City of Pooler Wetland Impact Permit along with the following additional materials as part of the application:

1. Survey of property, less than 5 years old, with wetlands delineated.

2. Site plan depicting the proposed development.

3. Buffer landscaping plan.

4. Description of anticipated encroachment activity.

5. If proposed activity will result in encroachment within or impacts to a non-jurisdictional wetland or wetland buffer, a detailed explanation by a professional environmental consultant of why this activity cannot be located at an upland area, along with descriptions of any feasible alternatives that were considered. The detailed narrative shall include the following information:

i. The functions and values of the wetlands in question, using a state or nationally recognized framework method for assessing and scoring.

ii. The proximity of the wetland to other waterbodies.

iii. The environmental impact of the proposed disturbance.

iv. Threats to other properties from increases in flooding, erosion and/or pollution.

v. The loss of wetland habitat and the loss of flora/fauna.

vi. The cumulative impact of the above factors in relation to all known previous, pending, and reasonably anticipated future wetland disturbances.

vii. A statement demonstrating how the purpose of the proposed project serves an overriding public interest.

(d) Approval of Non-Jurisdictional Wetland and Wetland Buffer Impact. The City Manager or designee has the discretion to allow development activities in non-jurisdictional wetlands or wetland buffers upon a finding that the proposed disturbance does not have any feasible alternatives available that would reduce adverse impacts to the wetlands, all practicable measures have been taken to avoid impacts to the non-jurisdictional wetlands, where avoidance is not feasible, impacts have been minimized to the maximum extent practicable, and provides mitigation that adequately protects the wetland's water quality services, flood retention functions, and any loss of or damage to wildlife habitat or native plant communities. For public projects, impact to a non-jurisdictional wetland or its buffer should align with an overriding public interest and serve a legitimate public need. The City Manager or designee shall have the authority to require certain prerequisites, plan modifications, wetland management plans, and/or compensatory mitigation plans as a condition to application approval if deemed such conditions are necessary to further the purposes of this Ordinance. These conditions can include, but are not limited to:

1. Design modifications to reduce project impacts to the non-jurisdictional wetlands and adjacent areas.
2. Flood and erosion loss reduction measures to prevent hazard losses.
3. Compensatory mitigation measures to offset losses to the non-jurisdictional wetland area acreage, functions, and values.
4. Increasing wetland buffer widths to protect sensitive areas.
5. Erection of permanent wetland area markers or signs.
6. Deed restrictions, covenants, or conservation easements regarding future use of lands, including but not limited to preservation of undeveloped areas.

(e) Compensatory Wetland Mitigation. For any development requiring compensatory wetland mitigation, the applicant shall submit documentation of mitigation plans, including the proposed mitigation site, wetland type, acreage to be restored or created, and mitigation ratio as follows:

1. Proposed wetland restoration or creation shall be in accordance with standards and principles set by frameworks from either the U.S. Army Corps of Engineers, the Environmental Protection Agency or the Natural Resources Conservation Service. The standards used shall be detailed in the applicant's narrative.
 2. The minimum mitigation ratio shall be 1.25:1 (1.25 acres of mitigation for each 1 acre impacted), unless a greater ratio is required by federal or state regulators.
 3. On-site mitigation is preferred whenever feasible.
 4. Off-site mitigation may be accepted at the City Manager's discretion, provided the off-site location is within the city limits of Pooler, it meets federal and state requirements and results in no net loss of wetland function.
 5. Compensatory Wetland Mitigation areas shall be placed in a Conservation Easement with deed restrictions meeting the requirements of the U.S. Army Corps of Engineers Model Conservation Easement to ensure permanent protection and preservation.
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6. A performance bond, escrow account, certified check, or irrevocable letter of credit from a bank which has a business office within the State of Georgia, in the amount of 150 percent of the required compensatory wetland mitigation shall be required to ensure the completion of all required wetland mitigation. The city may reduce the bond, escrow account, or irrevocable letter of credit by as much as one-half upon completion of the compensatory wetland mitigation.

7. A monitoring report shall be required two years after completion of the compensatory wetland mitigation to demonstrate that the mitigation is performing in accordance with the approved standards it was designed to, has achieved no net loss of wetland function, and remains in good functional condition. The applicant shall request an inspection at this time, and if the wetland mitigation is in good function, the city shall release the bond, escrow, or letter of credit. Such bond, escrow, or irrevocable letter of credit shall remain in force until released by the city after due inspection of the mitigation and shall not automatically expire.

Sec. 42-245. Density Bonus.

(a) In order to encourage protection of non-jurisdictional wetlands and innovation in development design, cluster developments may be permitted a density bonus when the applicant is permanently preserving non-jurisdictional wetlands based upon the following performance standards:

1. The non-jurisdictional wetlands shall be placed in a Conservation Easement with deed restrictions meeting the requirements of the U.S. Army Corps of Engineers Model Conservation Easement to ensure permanent protection and preservation.
2. A project that clusters single-family attached and multi-family residential development to protect the non-jurisdictional wetlands may allow a density bonus of 10% beyond what is permitted in the base zoning district of the property to be developed. Applicants who elect to maintain or install a wetland buffer of 50 feet may be granted a density bonus of 10% beyond what is permitted in the base zoning district, with an additional 5% bonus for every additional 25 feet of wetland buffer width.
3. A project that clusters single-family detached residential development to protect the non-jurisdictional wetlands may allow a reduction in minimum lot area and width requirements in the base zoning district. The maximum permissible reduction may not exceed 25 percent of the minimum required lot area and width.
4. For non-residential development, a 20% reduction in the building setbacks required per the base zoning district may be permitted for projects that cluster development to protect the non-jurisdictional wetlands.

Sec. 42-246. Activities Prohibited and Exempted.

(a) Prohibited Activities within non-jurisdictional wetlands and wetland buffers. Unless approval has been granted under a City of Pooler Wetland Impact Permit or as

expressly authorized herein, the following activities are specifically prohibited within a non-jurisdictional wetland or wetland buffer:

1. Land disturbance, except for minimal disturbance associated with the installation of trees and plants as approved by staff, where a wetland buffer is re-established.
2. Dumping or filling with any materials.
3. Placement of structures or other pervious or impervious surfaces.
4. Removal or destruction of trees, plants, or grasses.

(b) Exceptions within wetland buffers. The following activities are permitted in a wetland buffer, subject to the limitations below:

1. Maintenance of existing buffer vegetation.
2. Construction and maintenance of public multi-purpose pathways and pedestrian walkways, including minor associated structures such as footbridges and benches, provided such pathway is no more than 10 feet wide and provides access to the adjacent wetlands for wildlife management and viewing, educational purposes, and passive recreation.
3. A crossing is permitted only when the wetland buffer and vegetation can still perform their function and when utilities (or associated perpetual access for maintenance) do not require a cleared corridor through the buffer crossing.
4. Wetland restoration.
5. Limited removal of (i) trees or other vegetation determined by staff to be dead, dying or diseased, provided the root system remains intact, (ii) non-native trees or other vegetation determined by staff to constitute a threat to the growth or reintroduction of native species of vegetation, (iii) fallen trees, tree limbs, and brush that may impede stream flow or pedestrian traffic along the walkways.

(c) Exceptions within non-jurisdictional wetlands. The following activities are permitted in a non-jurisdictional wetland, subject to the limitations below:

- i. Construction and maintenance of public boardwalks.
- ii. Construction and maintenance of public multi-purpose pathways and pedestrian walkways, including minor associated structures such as footbridges and benches, provided such pathway is no more than 10 feet wide and provides access to the wetlands for wildlife management and viewing, educational purposes and passive recreation.

Sec. 42-247. Other requirements.

- (a) Variances. Any request to vary from the requirements in this Article shall require the applicant to follow the standard variance procedure.
 - (b) Appeals. Any request to appeal a staff determination made regarding provisions in this Article shall follow the standard appeal procedure.
 - (c) Non-conformities. For redevelopment projects, where pre-existing non-conformities are located on a property due to the provisions in this article, the non-conformities may
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remain pursuant to Appendix A, Article III, Section 1 pertaining to non-conformities, but no new or expanded impact will be permitted unless otherwise authorized by this article.

- (d) Notification of Start of Project. The applicant for the City of Pooler Wetland Impact Permit shall notify staff at least five business days prior to commencing land development activity.
- (e) Temporary Survey Stakes and Silt Fencing. Temporary survey stakes, flags and/or silt fencing delineating boundaries of the wetlands and wetland buffers must be placed at the project site by an engineer, surveyor or contractor. The markers shall follow the contour of the wetlands and wetland buffers and shall be placed not more than fifty feet apart.
- (f) Inspections. Every City of Pooler Wetland Impact Permit issued shall grant staff the right to inspect the project to determine compliance with conditions and provisions of this ordinance.
- (g) Duration of City of Pooler Wetland Impact Permit. City of Pooler Wetland Impact Permits shall be valid concurrent with the underlying site development plan approval.
- (h) Notification of Project Completion. The applicant for the City of Pooler Wetland Impact Permit shall notify staff upon project completion and follow standard project close-out procedures. For projects where compensatory wetland mitigation was approved, upon the wetland restoration or creation completion, a GIS file delineating the area shall be submitted to staff for city mapping and inventory purposes.

Sec. 42-248. Monitoring and Enforcement.

- (a) In addition to the monitoring report required in 42-244(e), the city will record and monitor all compensatory wetland mitigation projects to ensure the program is yielding the desired results.
- (b) Violation and Penalty. Any person violating any provision of this article may be deemed guilty of an offense, and upon conviction shall be punished as provided in Chapter 1, Section 1-12.
- (c) Stop Work Order. City staff may issue a Stop Work Order upon determining that an applicant of a City of Pooler Wetland Impact Permit is in violation of provisions or conditions of their approval. The applicant will be required to restore the wetland area in the event of a violation.

Secs. 42-2439—42-270. Reserved.

II

All ordinances or parts of ordinances in conflict with the ordinance are hereby repealed.

III

If any section, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the said holding shall in no way affect the validity of the remaining portions of this ordinance.

IV

This ordinance shall be effective immediately upon its adoption by the Mayor and City Council of Pooler, Georgia.

FIRST READING: _____ day of _____, _____

SECOND READING: _____ day of _____, _____

ADOPTED: _____ day of _____, _____

CITY OF POOLER, GEORGIA

Karen L. Williams, Mayor

ATTEST:

Kiley Fusco, Clerk of Council