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ARTICLE IV

**WETLAND PROTECTION ORDINANCE
THOMAS COUNTY, GEORGIA**

Sec. 42-96. Findings and Purpose.

(a) *Findings of Fact.* The wetlands within Thomas County, Georgia, 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; 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.

The Georgia Department of Natural Resources and the Georgia Department of Community Affairs have determined that each local government with classified wetlands located in its jurisdiction must adopt a Wetlands Protection Ordinance under the requirements of House Bill 215, Georgia's 1989 Growth Strategies Legislation and the rules promulgated thereunder.

(b) *Title and Purpose.* This ordinance shall be known as the Wetland Protection Ordinance of Thomas County, Georgia. The purposes of this ordinance are to promote wise use of wetlands and protect wetlands, while taking into account varying ecological, economic development, recreational, and aesthetic values. The objective of this ordinance is to make the public aware of state and federal laws that protect wetlands from alterations which will significantly affect or reduce their primary functions for water quality, floodplain and erosion control, ground water recharge, aesthetic nature, and wildlife.

Sec. 42-97. Definitions.

Functions - The beneficial roles that wetlands serve, including: storage, conveyance, and attenuation of floodwater and storm water; protection of water quality and reduction of erosion; habitat for wildlife, including rare, threatened and endangered species; food chain support for a wide variety of wildlife and fisheries; educational, historical, and archeological value protection; and scenic, aesthetic, and recreational amenities.

Generalized Wetland Map - A map depicting jurisdictional wetlands within Thomas County.

Hydric Soils - Soils that form as a result of saturated soil conditions. A list of these soils is maintained by the Soil Conservation Service.

Hydrophytic Vegetation - Macrophytic plants tolerant of or dependent on saturated soil conditions.

Jurisdictional Wetland - A wetland area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

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 exempted in Section 404 of the Federal Clean Water Act.

Silviculture - The art of producing, reproducing and growing a forest of distinctive stands of trees.

Wetland - An area that is inundated or saturated by surface water or groundwater at a frequency and distribution sufficient to support, and under normal circumstances does support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophilic vegetation. Wetlands generally include swamps, marshes, bogs and similar areas.

Wetland Delineation - The establishment of wetland boundaries by a representative of the U.S. Army Corps of Engineers or an authority designated by the Corps.

Wetland Protection District - All wetlands within the jurisdiction of Thomas County, Georgia which are indicated on the Generalized Wetland Map as “wetlands providing significant wildlife habitat and/or which may be subject to extensive mitigation”.

Sec. 42-98. Wetland protection district established.

(a) *Wetland Protection District.* This ordinance shall apply to all wetlands within the Wetland Protection District as defined herein and located within the jurisdiction of Thomas County, Georgia. The Generalized Wetland Map, adopted as part of this ordinance, shows the general location of wetlands and of the Wetland Protection District and should be consulted by persons contemplating activities in or near wetlands before engaging in a regulated activity. The Generalized Wetland 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 shall be on file in the office of the Thomas County Building Department.

(b) *Wetland Protection District Boundaries.* The Generalized Wetland Map is a general reference document and wetland boundaries indicated on the map are approximations. The purpose of the Generalized Wetland Map is to alert developers/landowners if they are within proximity to a wetland, which means that there is a high likelihood of the presence of a jurisdictional wetland and a need for the developer/landowner to seek U.S. Army Corps of Engineers guidance as to whether a Section 404 Permit will be required prior to any activity. The Generalized Wetland Map does not necessarily represent the exact boundaries of jurisdictional wetlands within the jurisdiction of Thomas County, Georgia, 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.**

Sec. 42-99. Local development registration.

(a) *Local Development Registration Requirements.* No regulated activity will be conducted within the Wetland Protection District without registration with the Thomas County Board of Commissioners or its designee. All activities that are not exempted in Section (b) below or by other local development ordinances, shall be prohibited without prior issuance of a local registration. If the area proposed for development is located within fifty feet (50') of the Wetland Protection District boundary, as determined from the Generalized Wetland Map, a U.S. Army Corps of Engineers determination shall be required. If the Corps determines that wetlands are present 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.

(b) *Permissible Uses (Use as a Right).* The following uses shall be allowed as a right within the Wetland Protection District to the extent that they are not prohibited by any other ordinance or law and provided they do not require structures, grading, fill, drainage, or dredging except as provided herein.

(1) Operations conducted during normal silvicultural activities, including minor dredge and fill associated with road construction, harvesting, and reforestation practices provided they meet the performance standards and road construction best management practices required under Section 404 of the Clean Water Act.

(2) Conservation or preservation of soil, water, vegetation, fish, and other wildlife, provided they do not affect waters of Georgia or of the United States in such a way that would require an individual 404 Permit.

(3) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.

(4) Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission.

(5) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the Georgia Department of Agriculture.

(6) The pasturing of livestock provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved best management practices are followed.

(7) Education, scientific research, and nature trails.

(8) *Emergency repair of Critical Facilities.* Maintenance or repair of lawfully located roads or structures and of facilities used in the service of the public to provide transportation, electric, gas, water, telephone, telegraph, telecommunication or other services, provided that such roads, structures, or facilities are not materially changed or enlarged and that, prior to the commencement of work, written notice has been given to the County or its designee and provided that the work is conducted using best management practices to ensure that flow and circulation patterns, and chemical and biological characteristics of the wetland, are not impaired and that any adverse effect on the aquatic environment will be minimized.

Temporary water level stabilization measures associated with silvicultural operations, provided that they are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected.

Limited ditching, tilling, dredging, excavating, or filling done solely for the purpose of maintaining or repairing existing drainage systems necessary for the cultivation of agricultural crops, provided that the maintenance or repair activity does not result in the impairment, alteration, or loss of wetlands not previously subject to agricultural and silvicultural use under the terms and provisions of Section (b.)

Limited excavating and filling necessary for the repair and maintenance of piers, walkways, nature trails, observation decks, wildlife management shelters, boathouses, or other similar water-related structures, provided that they are built on pilings to allow unobstructed flow of water and preserve the natural contour of the wetland.

(c) *Administration and Enforcement Procedures Site Plans.* Applications for a development permit within the Generalized Wetland Protection District shall include a 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, vertical scale must be shown on the cross-sectional drawings.

(2) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of ± 200 feet.

(3) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.

(4) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet.

(5) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.

(6) All proposed temporary disruptions or diversions of local hydrology.

(d) *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 by prior written notice to the County or its designee.

(e) *Filing Fee.* At the time of the application, the applicant shall pay a filing fee of \$100.00.

(f) *Enforcement Authority.* The Thomas County Zoning Administrator is hereby established as the administrator of this ordinance.

(g) *Review Procedures.* Application for a development permit shall be made to the Zoning Administrator for review and comments for compliance with this ordinance or such

parties which may be designated by the County. The review period shall include the preparations of findings (approval, approval with conditions, or disapproval.)

(h) *Duration of Permit Validity.*

(1) If construction described in the development permit has not commenced within 12 months from the date of issuance, the permit shall be renewed before construction may begin.

(2) If construction described in the development permit is suspended or abandoned after work has commenced, the registration shall expire twelve months after the date that work ceased.

Sec. 42-100. Penalties

(a) Any person who commits, takes part in, or assists in any violation of any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law. Each violation of this act shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense.

(b) If the county commission or its designee discovers a violation of this article that also constitutes a violation of provisions of the Clean Water Act as amended, the county commission or its designee shall issue written notification of the violation to the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers and the landowner.

(c) Suspension, revocation. The County Commission or its designee may suspend or revoke a registration if it finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The County Commission or its designee may cause notice of its denial, issuance, conditional issuance, revocation, or suspension of a permit to be published in a daily newspaper having a broad circulation in the area where the wetland is located.

Sec. 42-101. Judicial review.

(a) *Jurisdiction.* All final decisions of the County Commission or its designee shall be reviewable in the Thomas County Superior Court.

(b) *Alternative Actions.* Based on these proceedings and the decision of the court the County Commission or its designee may, within the time specified by the court, elect to institute other appropriate actions ordered by the court that fall within the jurisdiction of the County Commission.

Sec. 42-102. Amendments.

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 botanical species peculiar to wetlands become available.

Sec. 42-103. 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 restriction with the government or a nonprofit organization to permanently control some or all regulated activities in the wetland shall have that portion of land assessed consistent with those restrictions. Such landowner shall also be exempted from special assessment on the controlled wetland to defray the cost of municipal improvements such as sanitary sewers, storm sewers, and water mains.