

## Article 9. - Environmental Protection

### **Sec. 901 - Purpose of Chapter 9.**

This Article sets out the minimum requirements and standards for the protection of the natural environment within the County, including restrictions on the use of land near certain rivers and streams, within water supply watersheds, within groundwater recharge areas susceptible to pollution, and in wetlands in order to:

- (1) Protect the drinking water quality of the rivers, streams, reservoirs and aquifers that supply water to the residents of the jurisdiction and the State;
- (2) Protect the natural habitat of animal and plant life relative to water resources; and
- (3) Protect valuable water-related and other natural resources, to help control erosion and river sedimentation, for contribution to drought management, and to help absorb flood waters.

### **Sec. 902 - Definitions related to environmental protection.**

The definitions related to environmental protection are found in Article 15 of the Unified Development Code.

## DIVISION I. - RIVER AND STREAM CORRIDOR PROTECTION.

The provisions of this Division are adopted pursuant to the Rules for Environmental Planning Criteria of the Georgia Department of Natural Resources (Chapter 391-3.16), adopted by DNR under O.C.G.A. 12-2-8, the Metropolitan River Protection Act (O.C.G.A. 12-5-440 *et seq.*), and the Georgia Erosion and Sedimentation Act of 1975, as amended (O.C.G.A. 12-7-1 *et seq.*). The provisions of this Article shall be administered in conformance to all applicable State and Federal regulations and the requirements of 483 US 825 (1987), 512 US 374 (1994) and 570 US 595 (2013).

### **Sec. 903 - Protected rivers and streams; defined.**

#### **903 (a) Protected rivers and regulated streams.**

The following rivers and streams are declared to be protected rivers and regulated streams and are regulated under the provisions of this Division:

- (1) The Chattahoochee River (a State Protected River).
- (2) The Dog River, Bear Creek, Anneewakee Creek, Sweetwater Creek, Beaver Run Creek, Gothards Creek, Hurricane Creek and all other perennial streams and state waters, other than the Chattahoochee River.

#### **903 (b) Criteria for regulated streams.**

All watercourses that appear as a solid or broken line on the U.S.G.S. Quadrangle Maps shall be regulated streams. Other natural watercourses may be classified as regulated streams if they possess one or more of the following characteristics, as determined by the Development Services Director based on data analysis and/or field review:

- (1) Evidence of significant water flow along the channel or bed of the watercourse, characterized by one or more of the following: hydraulically sorted sediments; scouring of vegetation and vegetative litter; and loosely rooted vegetation caused by the action of moving water.
- (2) Evidence of hydric soils, hydrophytic vegetation, or wetlands in or around the channel or bed of the watercourse.

**Sec. 904 - Protected rivers and streams; restrictions.**

**904 (a) State protected rivers.**

A natural vegetative stream buffer is established along the banks of the Chattahoochee River, as follows:

- (1) The stream buffer shall include all lands within 100 feet of the Chattahoochee River, inclusive of any islands, as measured horizontally from the uppermost part of the riverbank. The area between the top of the banks and the edge of the river shall be included within the stream buffer. An additional 50 foot impervious surface setback, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited, is also required.
- (2) No land may be used, and no vegetation shall be disturbed, within the stream buffer by building construction, development activity, septic tanks or septic tank drainfields, the handling of hazardous wastes, or for any other purpose except for the following permitted uses:
  - a. A land use existing prior to the adoption of this Development Code.
  - b. Timber production and harvesting, subject to the following conditions:
    1. Forestry activity shall be consistent with best management practices established by the Georgia Forestry Commission.
    2. Forestry activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.
  - c. Wildlife and fisheries management activities consistent with the purposes of Section 12-2-8 (as amended) of Article 1, Chapter 2, Title 12 of the Official Code of Georgia Annotated (O.C.G.A.).
  - d. Public road and utility crossings meeting all requirements of the Georgia Soil Erosion and Sedimentation Control Act.
  - e. Public wastewater treatment and natural water quality treatment or purification.
  - f. Recreational usage consistent either with the maintenance of a natural vegetative stream buffer or with river-dependent recreation, such as a boat ramp.
  - g. Agricultural production and management, subject to the following conditions:
    1. Agricultural activity shall be consistent with best management practices established by the Georgia Soil and Water Conservation Commission.
    2. Agricultural activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act.
    3. Agricultural activity shall be consistent with all state and federal laws and all regulations promulgated by the Georgia Department of Agriculture.

- h. Utilities, other than public water or sewerage facilities, provided that:
    - 1. The utilities shall be located as far from the riverbank as reasonably possible.
    - 2. Installation and maintenance of the utilities shall be such as to protect the integrity of the stream buffer as well as is reasonably possible.
    - 3. Utilities shall not impair the drinking quality of the river water.
  - i. Other uses permitted by DNR under Section 404 of the Clean Water Act that are also allowed by the property's zoning classification.
- (3) The natural vegetative stream buffer shall be restored as quickly as possible following any land-disturbing activity within the stream buffer.

**904 (b) Other regulated streams and state waters.**

For all regulated streams and other state waters other than the Chattahoochee River, the following shall apply:

- (1) Watershed protection areas.

All regulated streams within watershed protection areas must comply with the stream buffer and setback requirements established for streams in each watershed. (See Division II of this Article.)

- (2) Other streams and waters.

For regulated streams and other state waters for which there are no stream buffer or setback restrictions otherwise established by this Article, there shall be no land disturbing activities within a 50-foot wide stream buffer extending outward from both of the stream banks, other than drainage structures and roads allowed under a development permit. An additional setback of 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filing and earthmoving shall be minimized within the setback. No septic tanks or septic tank drainfields shall be permitted within the buffer or setback.

**904 (c) Recordation of restrictions.**

Restrictions shall be noted on the plats and deeds of included properties to maintain any designated natural stream buffer area, undisturbed area or construction setback required by this Article.

**Sec. 905 - Stream buffers.**

Unless more restrictive requirements under this Code apply, all perennial streams and other state waters shall be provided with a natural vegetative stream buffer as follows:

**905 (a) Minimum width of stream buffer.**

- (1) The minimum stream buffer width must be provided along any State Protected River as required under 904 (a);
- (2) The minimum stream buffer width must be provided along any protected stream within any water supply watershed and around any reservoir, as required under Sec. 908, below; and

- (3) For all other perennial streams and state waters, the stream buffer is to be established for a distance of 50 feet along the banks of any such stream or other state waters, as measured from the point where vegetation has been wrested by normal stream flow or wave action.

**905 (b) Minimum setback for land disturbance.**

All clearing, earth moving, construction and ground disturbance must remain at least 50 feet from the edge of any stream bank. Exceptions include bike and footpaths constructed of permeable material and road crossings perpendicular to streams. The installation of storm sewers will also be allowed. The area that is within this restricted construction area is to be left natural or developed as a trail with a minimum of disturbance to the natural habitat.

**905 (c) Protection of stream buffers; general.**

- (1) No land disturbing activities shall be conducted within a stream buffer and a stream buffer shall remain in its natural, undisturbed state of vegetation until all land disturbing activities on the construction site are completed. Land disturbing activities may only be allowed as follows:
  - a. Where the EPD Director determines to allow a variance that is at least as protective of natural resources and the environment; or
  - b. Where otherwise allowed by the EPD Director pursuant to O.C.G.A. 12-2-8; or
  - c. Where a drainage structure or a roadway structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented; provided, however, that stream buffers of at least 50 feet established pursuant to part 6 of article 5, chapter 5 of title 12, of the Official Code of Georgia, the *Georgia Water Quality Control Act*, shall remain in force unless a variance is granted by the EPD Director.
- (2) A stream buffer is to be included within a conservation or natural resources easement that meets the requirements of this Article.
- (3) Once the final stabilization of the site is achieved, a stream buffer may be thinned or trimmed of vegetation, consistent with the terms of any applicable conservation or natural resources easement, as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.
- (4) Any person constructing a single family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a stream buffer at any time, consistent with the terms of any applicable conservation or natural resources easement, as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

**905 (d) Regulatory requirements for stream buffers.**

- (1) All stream buffer areas shall be maintained with appropriate indigenous plant species for the maintenance of groundcover and limitation of erosion. Undisturbed natural vegetation is the preferred, optimum state of a stream buffer. In the alternate, careful reestablishment of indigenous vegetation and ground cover is encouraged.
- (2) No construction, grading, clearing, grubbing, excavating, filling, or other land disturbing activity shall be permitted within the stream buffer. As an exception to this rule, the following limited

uses may be established within the stream buffer provided that: land disturbance and impact in the stream buffer is minimized to the greatest extent possible; proper soil erosion and sedimentation control is established and maintained; and the disturbed area is stabilized and appropriately revegetated as soon as possible following the completion of approved work within the stream buffer.

- a. Sanitary sewer lines may be located across stream buffers as near as possible to 90 degrees if it is determined by Development Services Director or his/her designee that no reasonable design alternative exists. Sanitary sewer lines may also be installed within stream buffers if they are a part of a project specifically for the purpose of upgrading WSA's sanitary sewer system and not for the purpose of outfall sanitary sewer mains or sewer mains specifically required for a particular development; and, it is determined by WSA that no reasonable design alternative exists; and, the minimum state buffers are not encroached upon unless specifically permitted by EPD and/or the Army Corps of Engineers; and, approval from the Development Services Director has been obtained.
- b. Other utility lines may cross stream buffers, when it is determined by the utility provider that no reasonable design alternative exists.
- c. Private driveways and public roads may cross stream buffers as near as possible to 90 degrees when necessary and as approved by Douglas County in the subdivision or development review process.
- d. Recreational amenities (such as trails, wildlife observation stands, and other low impact uses) when approved by Douglas County as an element of a development plan.
- e. Cutting and clearing (with hand-held tools) of live trees less than 2-inches in caliper measured at a point 4.5 feet above grade, and dead trees, provided the stumps and root structure of trees are left in place to ensure minimal soil erosion potential.
- f. On a project, where all applicable permits have been obtained by the EPD and Army Corps of Engineers for the piping of state waters, the stream buffer shall be reduced to zero (0) feet wide along the piped section(s). At the end of the piped section(s) the stream buffer will extend 90 degrees from the ends of the pipe to the regulated buffer width.

## DIVISION II. - WATERSHED PROTECTION.

### Sec. 906 - Watershed Protection Overlay District (O-EO).

#### **906 (a) Purpose.**

- (1) In order to provide for the health, safety, welfare, and quality of life of the public within Douglas County and surrounding communities, it is essential that the quality of public drinking water be assured. Land disturbance and development can increase erosion and sedimentation that decreases the storage capacity of reservoirs. In addition, storm water runoff, particularly from impervious surfaces, can introduce toxins, nutrients, and sediment into drinking water supplies, making water treatment more complicated and expensive and rendering water resources unusable for recreation.
- (2) The purpose of this overlay district is to establish measures to protect the quality and quantity of the present and future water supply of Douglas County, as well as the City of East Point and jurisdictions downstream from Douglas County; to minimize the transport of pollutants and sediment to the water supply; and to maintain the yield of water supply watersheds.

**906 (b) Authority.**

The O-EO district regulations are designed for compliance with O.C.G.A. 12-2-8 and the Official Georgia Department of Natural Resources Rules for Environmental Planning, as well as for consistency with goals contained in the Douglas County Comprehensive Plan.

Sec. 907 - Watershed protection district and areas; defined.

**907 (a) Watershed protection district.**

All land within unincorporated Douglas County is included within the O-EO Watershed Protection Overlay District. The O-EO district is subdivided into watershed protection areas.

**907 (b) Watershed protection areas.**

All land within unincorporated Douglas County is included within one of the watershed protection areas. The watershed protection areas are established and designated on the Official Zoning Map of Douglas County corresponding to the topographical features that delimit the drainage basins of the respective creeks, rivers and reservoirs. The Director of Development Services shall have discretion to interpret the precise boundary limits of the respective basins when site-specific topography calls into question the precise destination of surface water flows. These areas are:

- (1) Dog River (primary protection area) including all areas of the Dog River watershed outside of the secondary protection area;
- (2) Dog River (secondary protection area) including that portion of the Dog River watershed north of I-20 and extending south of I-20 for a ¼-mile radius from any interstate highway interchange;
- (3) Bear Creek;
- (4) Anneewakee Creek;
- (5) Sweetwater Creek/ East Point Intake Basin subwatershed
- (6) Sweetwater Creek/Sparks Reservoir Basin subwatershed;
- (7) Sweetwater Creek;
- (8) Hurricane Creek; and
- (9) Chattahoochee River Direct Drainage Basin (in areas not regulated by the Metropolitan River Protection Act).

Sec. 908 - Watershed protection district; restrictions.

**908 (a) Watershed protection district restrictions; general.**

The following are limited within all watershed protections areas of the watershed protection district:

- (1) New hazardous waste treatment or disposal facilities are prohibited.
- (2) New sanitary landfills, if permitted by DNR, shall have synthetic liners and leachate collection systems.
- (3) Any new facility that handles hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in

amounts of 10,000 pounds or more on any one day, shall perform their operations on impermeable surfaces having spill and leak collection systems as prescribed by DNR

- (4) Agricultural waste. The application of animal waste on land must follow guidelines established by the United States Department of Agriculture, Natural Resource Conservation Service, *Agricultural Best Management Practices*.
- (5) Landfills and Waste Disposal Utilities. Utilities that cannot be feasibly located outside the stream buffer or setback area must be located as far from the stream bank as reasonably possible; installed and maintained to protect the integrity of the stream buffer and setback areas as best as reasonably possible and must not impair the quality of the drinking water stream.
- (6) Street runoff and drainage. New streets that cross perennial streams shall be designed in such a way as to avoid direct runoff from the paved surface into the streams they cross. Such design features shall be shown on the Stormwater Management Plan (see the Procedures and Permits Article of this Code).

**908 (b) Watershed protection areas; restrictions. (See also Table 9.1.)**

Within a protected watershed area:

- (1) All property within watershed protection areas may be developed or redeveloped as permitted by its base zoning, provided the development is also in compliance with these watershed protection regulations.
- (2) The following uses are exempt from Watershed Protection District regulations (with some limitations and conditions as noted):
  - a. Development and land use legally established prior to the adoption of these regulations.
  - b. Mining activities permitted by the Department of Natural Resources under the Surface Mining Act (outside of stream buffer areas).
  - c. Specific forestry and agricultural activities (outside of stream buffer areas) that are consistent with best management practices established by the Georgia Forestry Commission/Department of Agriculture and do not impair the quality of streams.

**Table 9.1: Watershed Protection Regulations**

Dog River (primary area)	Dog River (secondary area)	Bear Creek <sup>1</sup>	Anneewakee Creek	Sweetwater Creek/ East Point Basin sub-watershed	Sweetwater Creek / Sparks Reservoir Basin sub-watershed	Sweetwater Creek	Chattahoochee River	Other Watersheds <sup>2</sup>	Hurricane Creek
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Stream buffer width from bank of regulated stream <sup>3</sup>	200 ft.	50 ft.	100 ft.	50 ft.	100 ft.	100 ft.	50 ft. <sup>4</sup>	100 ft.	50 ft.	50 ft.
Minimum setback for regulated activities <sup>5</sup> from bank of regulated stream	200 ft.	75 ft.	150 ft.	75 ft.	150 ft.	150 ft.	75 ft. <sup>4</sup>	150 ft.	75 ft.	75 ft.
Maximum impervious surface area (residential) <sup>6</sup>	18%	25%	25%	n/a						
Maximum impervious surface area (commercial) <sup>6</sup>	18%	25%	25%	n/a						
Residential lot and density requirements (with sewer service) <sup>8</sup>	See footnote 9 below <sup>9</sup>	Per zoning district	Per zoning district <sup>1</sup>	Per zoning district						
Residential lot and density requirements (no sewer service) <sup>8</sup>	See footnote 9 below <sup>9</sup>	Per zoning district	Per zoning district <sup>1</sup>	Per zoning district						

<sup>1</sup>See also the O-ED Estate Density Overlay District, which covers portions of the Bear Creek Watershed.

<sup>2</sup>Watersheds not classified as large or small water supply watersheds (i.e. Hurricane Creek: Chattahoochee River Direct Drainage Basin (in areas not regulated by MRPA)).

<sup>3</sup>See definition of "regulated stream," and regulated stream criteria under Section 903 (b).

<sup>4</sup>Measured from edge of wetlands where present.

<sup>5</sup>Regulated activities include all impervious surfaces, septic tanks, drain fields, and animal/livestock pasturing, keeping, or grazing.

<sup>6</sup>See definition of impervious surface. For a Revised Final Plat, Five Lot Split Large Lot Subdivision and Major Subdivision, the maximum percentage can be met on a project-wide basis provided that the project is planned in detail and adequate controls are established (through deed restrictions, zoning plans and conditions, or other mechanism) to ensure compliance.

<sup>7</sup>Reserved

<sup>8</sup>See Section 404 regarding areas excluded from minimum lot size and maximum density calculations, and minimum buildable areas per lot.

<sup>9</sup>Minimum gross land area per lot: 3 acres (130,680 square feet); minimum net lot area: 1 acre (43,560 square feet); minimum buildable area per lot: 1 acre (43,560 square feet).

### **908 (c) Reservoir protection.**

#### **(1) Private artificial reservoirs.**

- a. Reservoirs created on private property by either building a dam across or diverting flow from a regulated stream shall only be permitted with the approval of Douglas County and all relevant state and federal agencies. Information required for review shall include, but not be limited to: engineering documents showing the proposed design and materials of any dam, flume, spillway, outlet control structure, or other structure necessary to create the reservoir; details on the size, volume, and characteristics of the reservoir embayment that is proposed for creation; and a plan of management for the reservoir, showing the type and extent of vegetative stream buffers proposed.
- b. In order for a private artificial reservoir to be approved, an applicant must provide the following: engineering documentation that demonstrates that the project will be adequately durable and safe; evidence that the reservoir will not diminish the flow of water to public water supply reservoirs; and environmental documentation demonstrating that the project will have a net positive impact on water quality within the regulated stream and its watershed when compared with a no-build alternative.

#### **(2) Public water supply reservoirs.**

A natural stream buffer shall be established and maintained within at least 200 feet of the banks of any public water supply reservoir boundary area within the Dog River Watershed Protection Area, or 150 feet in any other area. Vegetation, land disturbance and land uses shall be controlled by the provisions of the applicable Reservoir Management Plan, as approved by the Georgia Department of Natural Resources (DNR).

### DIVISION III. - GROUNDWATER RECHARGE AREA PROTECTION.

Sec. 909 - Groundwater Recharge Area Protection Overlay District (O-GW).

#### **909 (a) Purpose.**

The O-GW Groundwater Recharge Area Protection Overlay District is established to protect the quality of groundwater by regulating land uses within significant groundwater recharge areas. This is necessary to protect the public health, safety, and welfare, particularly those persons and communities who rely on groundwater as their source of potable water supply.

#### **909 (b) Authority.**

The provisions of this Division are adopted pursuant to the Rules for Environmental Planning Criteria of the Georgia Department of Natural Resources, adopted by DNR under O.C.G.A. 12-2-8.

Sec. 910 - Protected groundwater recharge areas; defined.

The O-GW district is mapped on the Official Zoning Map of Douglas County corresponding to the areas mapped as Significant Recharge Areas by the Georgia Department of Natural Resources in Hydrologic Atlas 18, 1999 edition.

Sec. 911 - Protected groundwater recharge areas; restrictions.

Within the O-GW district, the following shall apply:

#### **911 (a) New construction.**

No construction may proceed on a building or mobile home to be served by a septic tank unless the Douglas County Health Department first approves the proposed septic tank installations as meeting the requirements of the Georgia Department of Human Resource for On-Site Sewage Management (DHR Manual).

- (1) New homes served by a septic tank/drain field system shall be on lots having at least 110% of the subdivision minimum lot size calculated based on application of Table MT-1 in the DHR Manual. The minimums set forth in Table MT-1 may be increased further based on consideration of other factors (set forth in Sections A-F) of the DHR Manual. However, any lot of record approved prior to the adoption of these regulations is exempt from this requirement.
- (2) New mobile home parks shall be served by sanitary sewer.

#### **911 (b) Agricultural waste impoundment.**

New agricultural waste impoundment sites shall be lined if they exceed 50 acre-feet. As a minimum, the liner shall be constructed of compacted clay having a thickness of one-foot and a vertical hydraulic conductivity of less than  $5 \times 10^{-7}$  cm/sec or other criteria established by the Natural Resource and Conservation Service.

#### **911 (c) Chemical or petroleum storage tanks.**

New above-ground chemical or petroleum storage tanks, having a minimum volume of 660 gallons, shall have secondary containment for 110% of the volume of such tanks or 110% of the volume of the largest

tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt, provided they comply with all federal requirements.

**911 (d) Waste disposal.**

- (1) New facilities that handle hazardous materials of the types listed in section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and local fire code requirements.
- (2) New sanitary landfills, if permitted by DNR and the zoning district, shall have synthetic liners and leachate collection systems.
- (3) Any new facility that involves the treatment, storage or disposal of hazardous waste, if permitted by DNR and the zoning district, shall perform such operations on an impermeable surface having a spill and leak collection system.
- (4) Any new facility that handles hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in amounts of 10,000 pounds or more on any one day, shall perform their operations on impermeable surfaces having spill and leak collection systems as prescribed by DNR.

**DIVISION IV. - WETLANDS PROTECTION.**

Sec. 912 - Wetlands Protection Overlay District (O-WP).

**912 (a) Purpose.**

- (1) The O-WP Wetlands Protection Overlay District is established to promote the protection of wetlands in Douglas County, which are indispensable, fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. Furthermore, they provide habitat areas for fish, wildlife, and vegetation; water quality maintenance and pollution control; flood control; erosion control; opportunities for study and education; and open space and recreational opportunities.
- (2) Wetlands are commonly lost or impaired by draining, dredging, filling, excavating, building, pollution, and other acts. Piecemeal and cumulative losses will have the effect of destroying additional wetlands over time. Damaging or destroying wetlands threatens public safety and the general welfare.

**912 (b) Authority.**

The provisions of this Division are adopted pursuant to the Rules for Environmental Planning Criteria of the Georgia Department of Natural Resources, adopted by DNR under O.C.G.A. 12-2-8.

Sec. 913 - Protected wetlands; defined.

The O-WP District shall comprise the following two categories: all lands mapped as wetland areas by the U.S. Fish and Wildlife Service National Wetlands Inventory Maps (Generalized Wetlands Map); and all lands that, in the course of development review, are determined by Douglas County to have significant evidence of wetlands.

Sec. 914 - Wetlands map adopted.

The Generalized Wetlands Map is hereby adopted by reference and declared to be a part of this Code, together with all explanatory matter thereon and attached thereto. The Generalized Wetlands Map cannot serve (and therefore should not be used) as a substitute for a delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any action by Douglas County under this ordinance does not relieve the landowner from federal or state permitting requirements.

Sec. 915 - Protected wetlands; restrictions.

Within any protected wetlands area, the following shall apply:

**915 (a) Permit required for alteration.**

- (1) No activity that will, or which may reasonably be expected to, result in the discharge of dredged or fill material in waters of the U.S. (excepting those activities exempted in Section 404 of the Federal Clean Water Act) will be permitted within the O-WP District without written permission or a permit from Douglas County. A wetlands delineation by the U.S. Army Corps of Engineers shall be required in the following circumstances:
  - a. If the area proposed for development is located within 100 feet of an area delineated as wetlands by the Generalized Wetlands Map as determined by County staff; or,
  - b. If an area within a development site is determined by County staff to have significant evidence of wetlands
- (2) If the Corps determines that jurisdictional wetlands are present on a proposed development site the local permit or permission will not be granted until a Section 404 Permit or Letter of Permission is issued.
- (3) Areas established as stream buffers around wetlands that qualify as "State Waters" shall be protected in accordance with the requirements of Sec. 905.

**915 (b) Prohibited land uses.**

Within any protected wetlands area, the following are prohibited:

- (1) Receiving areas for toxic or hazardous waste or other contaminants;
- (2) Sanitary waste landfills;
- (3) Hazardous or toxic waste receiving, treatment or disposal facilities; and
- (4) Any other use not specifically exempted as noted above or properly approved by Douglas County and relevant State and Federal agencies.

**915 (c) Allowed land uses.**

Land uses that may be allowed if otherwise permitted by the zoning district and by the Section 404 permit include:

Permitted Uses. The following uses shall be allowed as of right within the Wetlands Protection District to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, provided they do not require structures, grading, fill, draining, or dredging except as provided herein,

and provided they have no impact on a navigable waterway that would necessitate acquisition of a Section 404 permit or a permit under Section 10 of the Rivers and Harbors Act.

- (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. 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.

Sec. 916 - Wetlands certification.

Design professionals shall indicate wetlands on plans required for a land disturbance permit application. The design professional that prepared the required plans accompanying the permit application shall add a statement to the grading plan sheet indicating whether or not wetlands are located on the property by checking the appropriate box on the Wetlands Certification. The Wetlands Certification shall read as shown under the specifications for grading plans in the Procedures and Permits Article of this Code.

#### DIVISION V. - NATURAL RESOURCE CONSERVATION AREAS.

Sec. 917 - Purposes of natural resource conservation.

The purposes of this Division, among others, are as follows:

- (1) To recognize the current development rights of property owners established through zoning;
- (2) To conserve open land, including those areas containing unique and sensitive natural features such as stream buffers, floodplains, and wetlands, by setting them aside from development;
- (3) To support the continued viability of agricultural activities in the county, including crop production, dairying and managed forestry;
- (4) To reduce erosion and sedimentation by the retention of existing vegetation and encourage minimization of development on steep slopes;
- (5) To enhance water quality of streams and waterways, and to protect valuable groundwater resources; and
- (6) To provide notification to property owners of natural resources that must be protected on their property.

Sec. 918 - Designation of conservation areas.

#### **918 (a) Primary conservation areas.**

Primary Conservation Areas are defined as follows:

- (1) Floodways within the 100-year floodplain.

These areas are designated on maps prepared by the Federal Emergency Management Agency (FEMA), and must be confirmed as to their specific location on the Preliminary Plat.

- (2) Flood hazard areas.

All areas within the 100-year floodplain but lying outside any floodway, wetland or other designated Primary Conservation Area fall under this category. The boundaries of the 100-year floodplain are designated as the "flood hazard area" on maps prepared by the Federal Emergency Management Agency (FEMA), and must be confirmed as to their specific location on the Preliminary Plat.

- (3) Required stream buffers.

Natural vegetative stream buffers along the banks of all perennial streams and other state waters, as required by this Article (except for activities that are exempt from the soil erosion and sedimentation control provisions of Article 11, Erosion Control and Stormwater Management).

- (4) Wetlands.

Protected wetlands are defined under Sec. 913.

- (5) Wildlife habitats of threatened or endangered species.

The following have been identified by the Federal and/or the State governments as threatened or endangered species in Douglas County:

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**Table 9.2: Threatened or Endangered Species Identified in Douglas County**

Common Name	Biological Name	Habitat
<b>Animals</b>		
Bald eagle	<i>Haliaeetus leucocephalus</i>	Inland waterways and estuarine areas in Georgia
Bluestripe shiner	<i>Cyprinella callitaenia</i>	Brownwater streams
Hightscale shiner	<i>Notropis hypsilepis</i>	Blackwater and brownwater streams
Plants		

Little amphiантus	<i>Amphiантus pusillus</i>	Shallow pools on granite outcrops, where water collects after a rain. Pools are less than 1 foot deep and rock rimmed.
Bay star-vine	<i>Schisandra glabra</i>	Twining on subcanopy and understory trees/shrubs in rich alluvial woods
Piedmont barren strawberry	<i>Waldsteinia lobata</i>	Rocky acidic woods along streams with mountain laurel; rarely in drier upland oak-hickory-pine woods
Pool Sprite, Snorkelwort	<i>Amphiантus pusillus</i>	Shallow pools on granite outcrops, where water collects after a rain. Pools are less than 1 foot deep and rock rimmed.
Source: U.S. Fish and Wildlife Service.		

- (6) Natural buffer areas around wetlands and habitats of endangered species.

Additional lands in their natural state provided around designated wetlands and critical wildlife habitats as protective vegetated buffers are recognized as Primary Conservation Areas. A naturally-vegetated wetland buffer must extend at least 25 feet from the wetland, and a natural buffer around a protected wildlife habitat must be at least 100 feet deep.

#### **918 (b) Secondary conservation areas**

Secondary Conservation Areas are areas that are encouraged (but not required) to be protected in any major subdivision. These include:

- (1) Soils with exposed bedrock or rock outcroppings greater than 40,000 sf.

Areas with exposed bedrock or rock outcroppings must be identified through observation on each site. Areas comprising 40,000 contiguous square feet or less are not considered Secondary Conservation Areas.

- (2) Mature timber stands or significant trees.

Forests and timberlands that have developed mature stands of trees qualify for conservation consideration. Individual trees that are specimen trees or otherwise have significance through their size, age, species or historic value may be designated as a Secondary Conservation area to the extent of the tree's dripline. See Article 8, Landscaping, Buffers and Tree Conservation.

- (3) Registered historic or archeological assets.

Sites or areas registered with the State or the National Register of Historic Places qualify under this category since preservation is desirable but not mandated by law. Information regarding all such sites is available from the Georgia Office of Historic Preservation.

(4) Village greens, parkways.

These areas create neighborhood assets by providing open space and passive recreation close to the homes in a subdivision. A village green is an open space area surrounded by streets and/or building lots on at least three sides, and intended for common neighborhood use. A parkway is a narrow strip of open space surrounded by streets on all sides, intended as a landscaped element or passive recreation area for the neighborhood.

(5) Passive recreational areas.

Common areas solely designated and improved for passive recreational activities, such as picnicking, walking, relaxation and repose, may be treated as Secondary Conservation Areas. Active recreation areas, including but not limited to golf courses, swimming pools, sports fields and courts, and community buildings and grounds are not considered conservation uses or conservation areas.

(6) Flood fringe areas.

All areas within the flood fringe area but lying outside any wetland or other designated Primary Conservation Area fall under this category. The boundaries of the area are designated as the "flood fringe area" on maps prepared by the Federal Emergency Management Agency (FEMA), and must be confirmed as to their specific location on the Preliminary Plat.

Sec. 919 - Allowed uses in natural resource conservation areas.

The following requirements apply only to land set aside under conservation or natural resources easements in fulfillment of the provisions of this Article.

**919 (a) Undisturbed areas.**

Certain areas identified as Primary Conservation Areas shall remain in their natural, undisturbed state. Such undisturbed areas include floodways, stream buffers, critical wildlife habitats and habitat buffers, wetlands and wetland buffers.

**919 (b) Allowed uses in other areas.**

The following uses are allowed in natural resource conservation areas to the extent that they are compatible with the protection and preservation of areas required by law but not otherwise required to remain undisturbed, and provided they are allowed uses under the site's zoning classification.

- (1) Conservation of open land in its natural state (for example, woodland, open field, or managed meadow).
- (2) Agricultural and horticultural uses, including raising crops, pasturelands and dairy operations, along with associated buildings (including residences) that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.

- (3) Pastureland for horses used solely for recreational purposes. Equestrian facility buildings and grounds shall be permitted but may not be located in any Primary Conservation Area.
- (4) Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry, and best management practices endorsed by the Georgia Forestry Commission.
- (5) Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, golf courses, sports fields and courts, community recreation buildings and grounds, swimming pools, and other active recreation uses.
- (6) Pathways and trails, and passive recreation activities such as fishing, picnicking, and nature interpretation.
- (7) Water supply and sewage disposal system reserve fields and stormwater detention areas designed, landscaped, and available for use as an integral part of the conservation area. The septic tank and drain field required for on-site sewage disposal must be located on the lot of the house it serves. Areas within a conservation area used for water supply, reserve fields or stormwater detention must be located outside of any Primary Conservation Area, and must be established by easements between the appropriate parties and recognized in the conservation or natural resources easement covering the area.
- (8) Easements for drainage, access, power, natural gas, sewer or water lines, or other public purposes, as approved by the County Engineer and in keeping with conservation of the areas they traverse.
- (9) Within the flood hazard areas and the flood fringe areas, any use otherwise allowed in the applicable zoning district may be allowed by Special Use approval only, subject to compliance with all provisions related to Flood Damage Prevention in the Erosion Control and Stormwater Management Article of this Code.

## DIVISION VI. - CONSERVATION AND NATURAL RESOURCES EASEMENTS.

Sec. 920 - Conservation or natural resources easements; required.

### **920 (a) Primary conservation areas.**

All stream buffers required by this Article, all protected wetlands, and all other primary conservation areas in a subdivision or a master planned development that are required to be protected by the provisions of this Development Code, shall be permanently protected from further subdivision, development, and unauthorized use as follows:

- (1) By a natural resources easement in a conventional subdivision; or
- (2) By a conservation easement in an open space subdivision or a master planned development.

### **920 (b) Secondary conservation areas.**

Lands in secondary conservation areas that are designated by the developer for protection shall be included within a natural resources or conservation easement.

### **920 (c) Ownership of land in conservation and natural resources easements.**

Land within conservation and natural resources easements may be included within the lots in a subdivision, or owned by a homeowners' association or other entity that meets the provisions for a Property Owners' Association in the Subdivisions and Planned Developments Article of this Development Code.

Sec. 921 - Natural resources easements

**921 (a) Natural resources easements; creation.**

The natural resources easement, when required, shall be shown on the final subdivision plat and recorded with the Clerk of the Superior Court at the same time as the final plat.

- (1) When included within the lots in a subdivision, the natural resources easement shall be granted at no cost to a homeowners' association or other entity that meets the provisions for a Property Owners' Association in the Subdivisions and Planned Developments Article of this Development Code.
- (2) When the land to be included in the easement is owned by the homeowners' association, the easement shall be created and granted as a conservation easement under the provisions of Sec. 922.
- (3) The natural resources easement shall grant a third-party right of enforcement to the Douglas County Board of Commissioners to enforce, at its discretion, any of the terms of the natural resources easement.

**921 (b) Natural resources easements; guidelines.**

The following guidelines must be incorporated into any natural resources easement in a form acceptable to the County Attorney:

- (1) The easement specifically and clearly identifies the boundaries of the property subject to the easement through reference to the easement area shown on the final subdivision plat;
- (2) The easement contains restrictions as to what the owner may do with the property and specifically delineates what may not be done with the property. Limitations shall be consistent with the type of area protected and the applicable requirements of this Code to such areas, and may include but shall not be confined to prohibitions against subdivision, earthmoving, dumping, signs, utility lines, construction, changes to existing structures, and uses made of the property;
- (3) The easement provides for the right of the holder of the easement to inspect the property to assure observance of restrictions and also provides for enforcement procedures;
- (4) The easement contains provisions governing its amendment, including provisions that the easement shall not be altered or terminated except with the express written permission of the County.

Sec. 922 - Conservation easements.

**922 (a) Conservation easements; creation.**

The conservation easement, when required, shall be created subject to the provisions of O.C.G.A § 44-10-1, *et seq.*, which is known as the "Georgia Uniform Conservation Easement Act." The conservation

easement shall be shown on the final subdivision plat and recorded with the Clerk of the Superior Court at the same time as the final plat.

- (1) The conservation easement shall be approved by the Board of Commissioners and shall be granted at no cost to a charitable corporation, charitable association or charitable trust that qualifies as a "holder" under the Georgia Uniform Conservation Easement Act.
- (2) The conservation easement shall grant a third-party right of enforcement to the Douglas County Board of Commissioners to enforce, at its discretion, any of the terms of the conservation easement.
- (3) The conservation easement may not be granted to the owner of the property to which the easement will apply, including a homeowners' association holding natural resource conservation areas as common open space in an open space subdivision or master planned development.

## **922 (b) Conservation easements; guidelines.**

The following guidelines are required to be incorporated into any conservation easement in a form acceptable to the County Attorney:

- (1) The easement recognizes and describes in a statement of purpose the special qualities of the property subject to the easement. Conditions within the tract subject to the conservation easement may be shown by map and/or photograph;
- (2) The easement clearly identifies the owner of the property subject to the easement, the holder of the easement, and co-signer, and the responsibilities of the property owner, easement holder, and co-signer;
- (3) The easement specifically and clearly identifies the boundaries of the property subject to the easement, either by metes and bounds legal description, survey plat or reference to the easement area shown on the final subdivision plat;
- (4) The easement contains restrictions as to what the owner may do with the property and specifically delineates what may not be done with the property. Limitations shall be consistent with the type of area protected and the applicable requirements of this Code to such areas, and may include but shall not be confined to prohibitions against subdivision, earthmoving, dumping, signs, utility lines, construction, changes to existing structures, and uses made of the property;
- (5) The easement provides for the right of the easement holder to inspect the property to assure observance of restrictions and also provides for enforcement procedures;
- (6) The easement provides for the maintenance of the open space; and
- (7) The easement contains provisions governing its amendment, including provisions that the easement shall not be altered or terminated except with the express written permission of all entities having either a property right or enforcement right in the easement.