

## Chapter 5

### **BUILDING, CONSTRUCTION AND RELATED ACTIVITIES\***

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\***Cross references**--Floodplain regulations, Ch. 8; historic preservation, Ch. 9; public safety, Ch. 12; subdivisions, Ch. 17; trees and landscaping, Ch. 20; zoning, Ch. 22.

**State law references**--Governing body may enact standards to determine safety of buildings, Ga. Const., art. 1, sec. 4, par. 1; authority of city or county to provide codes, including building, housing, plumbing, and electrical codes, Ga. Const., art. 9, sec. 2, par. 3(12); providing of fire escapes by building owners, O.C.G.A. § 8-2-50; The Uniform Standards Code for Manufactured Homes Act, O.C.G.A. § 8-2-130 et seq.; The Uniform Act for the Application of Building and Fire Related Codes to Existing Buildings, O.C.G.A. § 8-2-200 et seq.; access to and use of public facilities by physically handicapped persons, O.C.G.A. § 30-3-1 et seq.; authority for municipalities to repair, close or demolish unfit buildings or structures, O.C.G.A. § 41-2-7.

Section 5-546a ARTICLE XVII 'WETLANDS PROTECTION

Section 5-546d DIVISION I. IN GENERAL

Section 5-547 Findings of Fact

(a) The wetlands within Thomasville, 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 population 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.

It is therefore necessary for Thomasville, Georgia to ensure maximum protection for wetlands by discouraging development activities in wetlands.

(b) Title and Purpose. This ordinance shall be known as the Wetland Protection Ordinance of Thomasville, Georgia. The purposes of this ordinance is to promote wise use of wetlands and protect wetlands, while taking into account varying ecological, economic development, recreational, and aesthetic values. Activities, which may damage wetlands, should be located on upland sites to the greatest degree practical as determined by a permitting process. The objective of this ordinance is to 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 areas and to comply with the requirements of state law related to wetland protection.

(1999 (547-60), Amended, 06/30/1999)

#### Section 5-548 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*City Council* means the Mayor and Council of the City of Thomasville, Georgia.

*Functions* means 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* means a map depicting jurisdictional wetlands within the City of Thomasville.

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

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

*Jurisdictional Wetland* means a wetland area that meets the definition requirements for wetlands as determined by the U.S. Army Corps of Engineers.

*Regulated Activity* means any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the United States excepting those activities exempted in Section 3.2 of this ordinance and exempted in Section 404 of the Federal Clean Water Act.

*Silviculture* means the art of producing, reproducing and growing a forest of distinctive stands of trees.

*Temporary Emergency Permit* means a temporary permit that may be issued in certain circumstances specified herein.

*Wetland* means 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* means 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* means all wetlands within the jurisdiction of Thomasville, Georgia, which are indicated on the Generalized Wetland Map as “wetlands providing significant wildlife habitat and/or which may be subject to extensive mitigation”.  
(1999 (547-60), Added, 06/30/1999)

#### Section 5-549 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, soil, hydrology, flooding, or botanical species peculiar to wetlands become available.  
(1999 (547-60), Added, 06/30/1999)

#### Section 5-549d DIVISION II. Wetland Protection District

##### Section 5-550 Wetlands Protection District

This ordinance shall apply to all wetlands within the Wetland Protection District as devised herein and located within the jurisdiction of Thomasville, 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 City of Thomasville Building Inspection Office and in the Office of the City Clerk.  
( 1999 (547-60), Added, 06/30/1999)

##### Section 5-551 Wetlands 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 Thomasville, Georgia and cannot serve as a substitute for a delineation of wetlands 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.

(1999 (547-60), Added, 06/30/1999)

### Section 5-551a DIVISION III. Local Development Permits

#### Section 5-552 Requirements

No regulated activity will be allowed within the Wetland Protection District without written permission from the City of Thomasville or its designee in the form of a local development permit. Issuance of a local development permit is contingent on full compliance with the terms of this ordinance and other applicable regulations. All activities that are not exempted in Section 4.2 below or by other local development ordinances shall be prohibited without prior issuance of a local development permit. 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.

(1999 (547-60), Added, 06/30/1999)

#### Section 5-553 Permissible Uses (Use as a Right)

(a) 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.

(b) Temporary Emergency Permit. A temporary emergency permit can be issued by the City of Thomasville or its designee for the following reasons:

1. 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 City of Thomasville 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.

2. Temporary water level stabilization measure 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.

3. 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 4.2.

4. 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.

(1999 (547-60), Added, 06/30/1999)

#### Section 5-554 Site Plans

(a) Applications for a development permit within the Generalized Wetland Protection District shall include a site plan, drawn at a scale of 1" = 50', (The City of Thomasville may approve a different scale where necessary to clearly provide the required information) 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, more or less.
- (3) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream of 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.

(b) Activities to comply with site plan. All development activities or site work conducted after approval of the site plan shall conform with the specifications of said site plan. The site plan may be amended only with the approval of the Chief Building Official or its designee. The Chief Building Official shall require a bond of \$1,000.00 per acre of project area and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit. The particular amount and conditions of the bond shall be consistent with the purposes of this ordinance. In the event of a breach of condition of any such bond, the City of Thomasville or its designee may collect such bond or institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution.

(1999 (547-60), Added, 06/30/1999)

#### Section 5-555 Filing Fee.

At the time of the application, the applicant shall pay a filing fee of \$100.00.

(1999 (547-60), Added, 06/30/1999)

#### Section 5-556 Review Procedure.

The application shall be made with the City of Thomasville Building Department and applicant will receive written notification of the findings thereof.

(1999 (547-60), Added, 06/30/1999)

### Section 5-556d DIVISION IV. MONITORING AND ENFORCEMENT

#### Section 5-557 Duration of Permit Validity.

(a) If construction described in the development permit has not commenced within 12 months from the date of issuance, the permit shall expire.

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

(c) Written notice of the pending expiration of the development permit may be issued by the City of Thomasville Building Department.  
(1999 (547-60), Added, 06/30/1999)

Section 5-558 Enforcement Authority.

(a) The Chief Building Official is hereby established as the administrator of this ordinance.

(b) The Chief Building Official and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this ordinance and may take or cause to be made such examinations, surveys, or sampling as the Chief Building Official or their designee deems necessary.

(c) The Chief Building Official shall have authority to enforce this ordinance: issue permits thereunder; and address violations or threatened violations thereof by issuance of violation notices, administrative orders, and civil and criminal actions. All costs, fees and expenses in connection with such actions may be recovered as damages against the violator.

(d) Law enforcement officials or other officials having police powers shall have authority to assist the Chief Building Official or its designee in enforcement.

(e) The Chief Building Official designee shall have authority to issue cease and desist orders in the event of any violation of this ordinance. Cease and desist orders may be appealed to a court of competent jurisdiction, as identified herein.

(f) The Chief Building Official may require a bond as set forth in Section 4.4 and with surety and conditions sufficient to secure compliance with the conditions set forth in the permit. The particular amount and the conditions of the bond shall be consistent with the purposes of this ordinance.

(1999 (547-60), Added, 06/30/1999)

Section 5-559 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) When a building or other structure has been constructed in violation of this ordinance, the violator may be required to remove the structure, at the discretion of the Chief Building Official or its designee.

(c) When removal of vegetative cover, excavation or fill has taken place in violation of this ordinance, the violator may be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the discretion of the Chief Building Official or its designee.

(d) If the Chief Building Official or its designee discovers a violation of this ordinance that also constitutes a violation of provisions of the Clean Water Act as amended, the Chief Building

Official or its designee may issue written notification of the violation to the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers and the landowner.  
(1999 (547-60), Added, 06/30/1999)

Section 5-560 Suspension or Revocation.

The Chief Building Official or its designee may suspend or revoke a permit 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 Chief Building Official 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.

(1999 (547-60), Added, 06/30/1999)