

An Ordinance to Protect the Wetlands of Bowman, Georgia

I. Purpose

The wetlands in Bowman are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the economic well being of many communities within the State of Georgia.

Nationally, a considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare.

The purpose of this ordinance is to promote wetlands protection, while taking into account varying ecological, economic development, recreational and aesthetic values. Activities that may damage wetlands should be located on upland sites to the greatest degree practicable as determined through a permitting process.

II. Definitions

- A. **Wetlands:** those areas that are inundated or saturated by surface or groundwater 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. The ecological parameters for designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.
- B. **Generalized Wetlands Map:** the current U.S. Fish and Wildlife Service National Wetlands Inventory maps for Bowman, Georgia.
- C. **Jurisdictional Wetland:** an area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.
- D. **Jurisdictional Wetland Determination:** a delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, 33 U.S.C. § 1344, as amended.
- E. **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 U.S. excepting those activities exempted in Section 404 of the Federal Clean Water Act.

III. Establishment of the Wetlands Protection District

The Wetlands Protection District is hereby established which shall correspond to all lands within the jurisdiction of Bowman, Georgia that are mapped as wetland areas by the U.S. Fish and Wildlife Service National Wetlands Inventory Maps. This map shall be referred to as the Generalized Wetlands Map and is hereby adopted by reference and declared to be a part of this ordinance, together with all explanatory matter thereon and attached thereto.

The Generalized Wetlands Map does not represent the boundaries of jurisdictional wetlands within Bowman 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.

IV. Protection Criteria

- A. Requirement for Local Permit or Permission:** No regulated activity will be permitted within the Wetlands Protection District without written permission or a permit from Bowman. If the area proposed for development is located within 50 feet of a Wetlands Protection District boundary, as determined by the Building Inspector using the Generalized Wetlands Map, a U.S. Army Corps of Engineers determination shall be required. If the Corps determines that wetlands are present on the proposed development site, the local permit or permission will not be granted until a Section 404 Permit or Letter of Permission is issued.

V. 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, and provided they do not require structures, grading, fill, draining, or dredging except as provided herein. [The activities listed in this section are exempted from Section 404 regulations provided they do not have impacts on a navigable waterway that would necessitate acquisition of an individual 404 permit. However, under Section 10 of the Rivers and Harbors Act, a permit may be required in some circumstances.]

- A.** 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.
- B.** Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.
- C.** 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.
- D.** The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the Georgia Department of Agriculture.
- E.** 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.
- F.** Education, scientific research, and nature trails.

VI. Prohibited Uses

The following uses are not permitted within the Wetlands Protection District.

- A.** Receiving areas for toxic or hazardous waste or other contaminants;
- B.** Hazardous or sanitary waste landfills;

VII. Administration and Enforcement Procedures

- A. Site Plans.** Applications for a local 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 and vertical scale must be shown on the cross-sectional drawings.
 - 2. A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
 - 3. Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.

4. The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
5. Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.
6. Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
7. All proposed temporary disruptions or diversions of local hydrology.

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 Mayor and Council. The Mayor and Council may require additional information deemed necessary to verify compliance with the provisions of this ordinance or to evaluate the proposed use in terms of the purposes of this ordinance.

Bowman may require a bond up to the larger of \$5,000.00 or \$1,000.00 per acre of project area and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit. The particular amount and conditions of the bond shall be consistent with the purposes of this ordinance. In the event of a breach of condition of any such bond, the Mayor and Council 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.

C. Review Procedures. The application shall be made to the City Clerk and will be reviewed within forty-five days. At the time of the application, the applicant shall pay a filing fee as specified by Mayor and Council. The review period shall include the preparation of findings by the Building Inspector or his designee. The Mayor and Council shall review the record prepared by the Building Inspector and vote on the permit application. The Mayor and Council may approve, approve with conditions, or deny the application. Within seven (7) days of its decision, the City Clerk shall notify the applicant. If the Mayor and Council fails to act on the application within forty-five (45) days of its submission to the Mayor and Council, the application is deemed to have been approved. Decisions of the Mayor and Council may be appealed to the Elbert County Superior Court.

D. Reserved

E. Duration of Permit.

1. If construction described in the development permit has not commenced within 12 months from the date of issuance, the permit shall expire.
2. If construction described in the development permit is suspended or abandoned after work has commenced, the permit shall expire 12 months after the date that work ceased.
3. Written notice of the pending expiration of the development permit shall be issued by the Building Inspector.

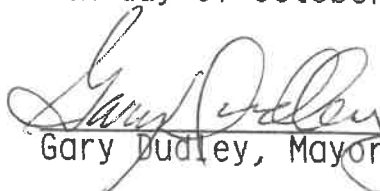
F. Penalties

1. When a building or other structure has been constructed in violation of this section, the violator may be required to remove the structure at the discretion of the Mayor and Council.
2. When removal of vegetative cover, excavation or fill has taken place in violation of this section, 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 Mayor and Council.

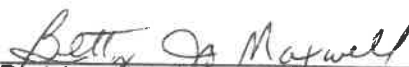
3. If the Mayor and Council discovers a violation of this ordinance that also constitutes a violation of any provision of the Clean Water Act as amended, the Board of Commissioners shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers and the landowner.
- G. Appeal Procedures.** Any aggrieved party may appeal a decision under this ordinance to the Elbert County Superior Court. Such appeal must be made within 30 days of decision.
- H. Suspension, Revocation.** The Mayor and Council 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 Mayor and Council shall cause notice of 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.
- I. Judicial Review.**
1. **Alternative Actions.** Based on these proceedings and the decision of the court, the Mayor and Council may, within the time specified by the court, elect to:
 - a. Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
 - b. Approve the permit application with lesser restrictions or conditions; or
 - c. Institute other appropriate actions ordered by the court that fall within the jurisdiction of the Mayor and Council.
- J. Map Amendment.** These regulations and the Generalized Wetland Map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information concerning wetland locations, soils, hydrology, flooding or plant species peculiar to wetlands becomes available.
- K. Assessment Relief.** Assessors and boards of assessors shall consider wetland regulations in determining the fair market value of land. Any owner of an undeveloped wetland who has dedicated an easement or entered into a conservation program with the government or a nonprofit organization restricting activities in a wetland shall have that portion of land assessed consistent with those restrictions. Such landowner shall also be exempted from special assessment on the wetland to defray the cost of municipal improvements such as sanitary sewers, storm sewers and water mains.
- L. Separability and Abrogation.** All sections and subsections of this ordinance are considered separate and distinct. Should any section, subsection, paragraph or part of this ordinance be declared by a court of jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph, or part of this ordinance.

This Ordinance shall be effective as of October 18, 2000.
All ordinances and parts of ordinances in conflict herewith
shall be and the same are hereby repealed.

ENACTED AND ADOPTED this 18th day of October, 2000.



Gary Dudley, Mayor

Attest: 

Betty Jo Maxwell, City Clerk

(CITY SEAL)

An Ordinance to Protect the Water Supply Watersheds in Bowman, Georgia

I. Purpose

In order to provide for the health, safety, and welfare of the public and a healthy economic climate within Bowman and surrounding communities, it is essential that the quality of public drinking water be assured. The ability of natural systems to filter stormwater runoff can be threatened by unrestricted development. Land-disturbing activities associated with development can increase erosion and sedimentation that threatens the storage capacity of reservoirs. In addition, stormwater runoff, particularly from impervious surfaces, can introduce toxins, nutrients and sediment into drinking water supplies, making water treatment more complicated and expensive and rendering waters resources unusable for recreation. Industrial land uses that involve the manufacture, use, transport, and storage of hazardous or toxic waste materials result in the potential risk of contamination of nearby public drinking water supplies.

The purpose of this ordinance is to establish measures to protect the quality and quantity the City of Elberton's water supply; to minimize the transport of pollutants and sediment to the water supply; and to maintain the yield of the water supply watershed. This ordinance shall apply to all existing and proposed water supply watersheds Bowman.

II. Definitions

- A. **Buffer** means a natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas, located adjacent to reservoirs or perennial streams within a water supply watershed.
- B. **Corridor** means all land within the buffer areas established adjacent to reservoirs or perennial streams within a water supply watershed and within other setback areas specified in Section IV of this ordinance.
- C. **Impervious Surface** means a man-made structure or surface that prevents the infiltration of storm water into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, or patios.
- D. **Reserved.**
- E. **Perennial Stream** means a stream that flows throughout the whole year as indicated on a USGS Quad map.
- F. **Reserved.**
- G. **Small Water Supply Watershed** means a watershed that contains less than 100 square miles of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.
- H. **Utility** means public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, stormwater systems and railroads or other utilities identified by a local government.
- I. **Reserved.**
- J. **Water Supply Watershed** means the area of land upstream of a governmentally owned public drinking water intake.

III. Establishment of a Water Supply Watershed District

The Beaverdam Creek Water Supply Watershed District is hereby designated and shall comprise the land that drains to the Elberton public water intake designated on the attached Water Supply Watershed map. The City of Bowman lies within this watershed but outside the 7-mile radius of the City of Elberton public water intake. The boundary of this watershed district is defined by the ridgeline of the watershed upstream of the respective public water supply intake. The Water Supply Watershed Map is hereby incorporated into and made a part of this ordinance by reference.

The following water supply watershed district is hereby defined and the boundaries shall be identified on the Water Supply Watershed Map.

- A. **Reserved.**
- B. **Reserved.**
- C. **Beaverdam Creek Watershed** is a small water supply watershed. An intake for Elberton is located on this creek.
- D. **Reserved.**
- E. **Reserved.**

IV. Protection Criteria

- A. **Reserved.**
- B. The following regulations shall apply to the Beaverdam Creek water supply watershed identified on the Water Supply Watershed .
 - 1. **Reserved.**
 - 2. The corridors of all perennial streams outside a seven mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir must be protected by the following criteria:
 - a. A buffer shall be maintained for a distance of 50-feet on both sides of the stream as measured from the stream banks.
 - b. No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream banks.
 - c. Septic tanks and septic tank drainfields are prohibited in the 75-foot setback area as described in 2.b. above.
 - 3. The impervious surface area, including all public and private structures, utilities, or facilities, of the entire water supply watershed shall be limited to 25%, or existing use, whichever is greater.
 - 4. New facilities which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and 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 or the requirements of the Standard Fire Prevention Code.
- C. **Reserved.**

V. Exemption

The following uses shall be exempted:

- A. Land uses existing prior to the adoption of this ordinance.
- B. Mining activities permitted by the Department of Natural Resources under the Surface Mining Act.
- C. Utilities from the stream corridor buffer and setback area provisions in accordance with the following conditions if the utilities to be located in the buffer or setback areas cannot feasibly be located outside these areas:
 - 1. The utilities shall be located as far from the stream bank as reasonably possible.

2. The installation and maintenance of the utilities shall be such to protect the integrity of the buffer and setback areas as best as reasonably possible.
 3. The utilities shall not impair the quality of the drinking water stream.
- D. Specific forestry and agricultural activities in the stream corridor buffer and setback areas in accordance with the following conditions.
1. The activity shall be consistent with best management practices established by the Georgia Forestry Commission or the Georgia Department of Agriculture.
 2. The activity shall not impair the quality of the drinking water stream.

VI. Administration and Enforcement Procedures

- A. Application for a local development permit within the Beaverdam Creek Water Supply Watershed 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 and vertical scale must be shown on the cross-sectional drawings
 2. A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
 3. Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.
 4. The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
 5. Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.
 6. Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
 7. All proposed temporary disruptions or diversion 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. Significant changes to the site plan that would alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill or removal of the overall appearance of the development as proposed, can be amended only with the approval of the Building Inspector or his designated appointee. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.
- C. **Exemptions to Site Plan Requirements.** The following activities and developments are exempt from the requirement for detailed site plans:
1. Single family detached homes constructed within a subdivision of fewer than five parcels.
 2. Repairs to a facility that is part of a previously approved and permitted development.
 3. Construction of minor structures, such as sheds or additions to single family residences.

D. Review Procedures. The application shall be made to the City Clerk and will be reviewed within forty-five days. At the time of the application, the applicant shall pay a filing fee as specified by Mayor and Council. The review period shall include the preparation of findings by the Building Inspector or his designee. The Mayor and Council shall review the record prepared by the Building Inspector and vote on the permit application. The Mayor and Council may approve, approve with conditions, or deny the application. Within seven (7) days of its decision, the City Clerk shall notify the applicant. If the Mayor and Council fails to act on the application within forty-five (45) days of its submission to the Mayor and Council, the application is deemed to have been approved. Decisions of the Mayor and Council may be appealed to the Elbert County Superior Court within thirty (30) days.

E. 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 expire.
2. If construction described in the development permit is suspended or abandoned after work has commenced, the permit shall expire 12 months after the date that work ceased.
3. Written notice of pending expiration of the development permit shall be issued by the Building Inspector.

F. Penalties

1. 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 Mayor and Council.
2. When removal of vegetative cover, excavation, or fill has taken place in violation of this section, 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 Mayor and Council.
3. If the Mayor and Council discovers a violation of this ordinance that also constitutes a violation of any provision of the Clean Water Act, as amended, the Mayor and Council shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.

G. Suspension, Revocation. The Building Inspector or his designee may suspend or revoke a permit if he 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 Building Inspector or his designee shall cause notice of 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 project is located.


H. Judicial Review

1. **Jurisdiction.** All final decisions of the Mayor and Council concerning denial, approval or conditional approval of a permit shall be reviewable in the Elbert County Superior Court.
2. **Alternative Actions.** Based on these proceedings and the decision of the Elbert County Superior Court, the Bowman Mayor and Council or its designee may, within the time specified by the Superior Court, elect to:
 - a. Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
 - b. Approve the permit application with lesser restrictions or conditions; or
 - c. Institute other appropriate actions ordered by the court that fall within the jurisdiction of the

- I. **Reserved**
- J. **Amendments.** These regulations and the Water Supply Watershed Map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.
- K. **Relief Assessment.** Assessors and Board of Assessors shall consider requirements of these regulations in determining the fair market value of land.
- L. **Separability and Abrogation.** All sections and subsections of this ordinance are considered separate and distinct. Should any section, subsection, paragraph or part of this ordinance be declared by a court of jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph, or part of this ordinance.

This Ordinance shall be effective as of October 18, 2000.
All ordinances and parts of ordinances in conflict herewith
shall be and the same are hereby repealed.

ENACTED AND ADOPTED this 18th day of October, 2000.



Gary Dudley, Mayor

Attest: 

Betty Jo Maxwell, City Clerk

(CITY SEAL)