

FOR DISCUSSION PURPOSES ONLY
(Sections 1-3 reflect amendments by committee. Remaining sections are provided as in the current ordinance)

WETLANDS PROTECTION

Section 1. Definitions.

[WITH DEFINITIONS ADDED BY NG&N AND THE COMMITTEE]

As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

“Accessory Use” means a use of real property that is incidental to the dominant use of the property.

“Agricultural” means the production of crops, animals or animal products, or farm commodities including but not limited to vegetables, citrus and other fruits, grain, forage, sod, livestock, poultry, and foliage plants.

“Best Management Practices” means those practices designed to reduce and manage pollution, the adverse impacts of changes in the natural ecosystem, and in some cases, to protect wildlife and habitat. These practices are generally outlined in the latest updated version of Best Management Practices manuals, including Silviculture Best Management Practices; Best Management Practices, A Landowner’s Handbook for Controlling Erosion for Forestry Operations; Management Guidelines for Forested Wetlands; Florida Development Manual, A Guide to Sound Land and Water Management; and other publications on Best Management Practices that are generally accepted by industries and regulatory bodies.

“Board” means the Board of County Commissioners of Wakulla County, Florida.

“Bona Fide Agricultural Use” means the use of land for bona fide purposes of growing crops or timber or raising animal stock, fish, poultry, or other agricultural purposes or for the purposes of Silviculture.

“Buffer” means the area, or areas, surrounding a wetland that help maintain the Wetland’s functional integrity and furnishes protection against the impacts of Wetland from activities in adjacent upland areas. A “Natural Undisturbed Buffer” is a Buffer that must remain in its.....

“Clearing”

“Comprehensive Plan” means the Wakulla County Comprehensive Land Use Plan adopted pursuant to Chapter 163, Florida Statutes.

“Construction” means the building of or substantial improvement to any structure or the Clearing, filling, or excavation of any land. It shall also mean any alterations in the size or use of any existing structure or the appearance of any land. When appropriate to the context, the term “Construction” refers to the act of Construction or the result of Construction.

“County” means Wakulla County, Florida, a political subdivision of the State of Florida.

“Developer” means any person who seeks to conduct land alteration, site Clearing, filling, or Construction of any type on a parcel of land, and may include the Owner of the parcel or any person authorized to act on behalf of the Owner.

“Development” as defined in section 2-4 of the Wakulla County Land Development Code, means the carrying out of any building or mining operation or the making of any material change in the use or appearance of any land or structure, and the dividing of land into two (2) or more parcels.

(a) The following activities or uses shall be taken for the purposes of this Ordinance to involve Development:

1. A reconstruction, alteration of the size or material change in the external appearance of a structure on land.
2. A change in the intensity of use of land such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments or offices in a structure or on land.
3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond or canal, including any coastal construction, as defined in Florida Statutes, section 161.021.
4. Commencement of drilling, mining or excavation on a parcel of land, including excavation for or installation of a septic tank or other utilities, except to obtain soil samples or to drill individual water supply and irrigation wells.
5. Demolition of a structure.
6. Clearing of land as an adjunct of Construction.
7. Deposit of refuse, solid or liquid waste or fill on land.

(b) The following operations or uses shall not be taken for the purposes of this Ordinance to involve Development:

1. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track carried out on land within the boundaries of the right-of-way.

2. Work by a utility or other person engaged in the distribution or transmission of gas or water for the purpose of inspecting, repairing, renewing or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks or the like.

3. Work for the maintenance, renewal, improvement or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

4. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

5. A change in the ownership or form of ownership of any parcel or structure.

6. The creation or termination of rights of access, easements, riparian rights, covenants concerning Development of land or any other rights in land.

(c) Development includes all other development activity customarily associated with it, unless otherwise specified.

“Development Order” means any official action of Wakulla County having the effect of permitting the development of land, including building permits and final plat approvals.

“Mitigation” means actions taken to avoid, reduce, or compensate for the effects of environmental damage.

“Silviculture” means a process, following accepted forest management principles, whereby the trees constituting forests are tended, harvested and reproduced.

“Surface Waters” means waters on the surface of the Earth, contained in bounds created naturally or artificially, including the Atlantic Ocean, the Gulf of Mexico, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, and other watercourses. The landward extent of a surface water in the County for the purposes of implementing this Ordinance, shall be the more landward of the following: (1) Wetlands, as defined in this Section; (2) the mean high water line elevation for tidal water bodies; (3) the ordinary high water line for non-tidal natural water bodies; (4) the top of the bank for artificial

lakes and other artificial water bodies with side slopes of one (1) foot vertical to four (4) feet horizontal or steeper, excluding spoil banks; or the seasonal high water line for artificial lakes and other artificial water bodies with side slopes flatter than one (1) one foot vertical to four (4) feet horizontal, along with any artificial water body created by diking or impoundment above the ground.

“Wetlands” means, as defined in subsection 62-340.200(19), Florida Administrative Code, as it may be amended, those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions, as defined in the Florida Administrative Code. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. Wetlands, for the purposes of this Ordinance should be delineated according to Chapter 62-340, Florida Administrative Code, as it may be amended.

Section 2. Findings and Statement of Intent.

[AS AMENDED BY THE COMMITTEE]

It is hereby ascertained, determined and declared that:

(A) Pursuant to Article VIII, Section 1(g) of the Florida Constitution, the Board of County Commissioners of Wakulla County has all powers of local self-government to perform County functions and to render services in a manner not inconsistent with general law and such power may be exercised by the enactment of County ordinances.

(B) The Board of County Commissioners of Wakulla County has adopted a Comprehensive Land Use Plan pursuant to Chapter 163, Florida Statutes, which provides for conservation of Wetlands and other Surface Waters and other natural resources found within the unincorporated area of Wakulla County.

(C) It is the purpose of this Ordinance to preserve, protect, and improve the public health, safety, welfare, and quality of life of the citizens of Wakulla County, by protecting and sustaining Wetlands and other Surface Waters, minimizing activities that degrade, destroy or otherwise negatively impact Wetlands and other Surface Water values and functions, and where appropriate, reestablishing and restoring productive Wetlands and other Surface Waters. Further, it is the purpose and intent of this Ordinance to promote ecological stability, to improve water quality, to protect drinking water aquifers, to prevent flooding, and to protect property and environmental resources.

(D) Wetlands serve many important economical, hydrological, and ecological values and functions in Wakulla County, including but not limited to, the following:

(1) Economical. Wetlands serve as breeding and nursery areas for Wakulla County's vital fisheries. Wetlands and other Surface Waters provide the nectar necessary to sustain Wakulla County's historic Tupelo honey industry. Wetlands and other Surface Waters serve as nursery areas and food sources for many of the County's bird species, thus supporting ecotourism. Wetlands protect Wakulla County's recreational water ways that attract day users and tourists.

(2) Hydrological. Wetlands reduce the impact of flooding by acting as natural retention and water storage areas. Wetlands act as groundwater recharge and/or discharge areas for the surficial aquifer, and protect water supplies for environmental, urban and Agricultural use. Wetlands protect groundwater table levels and help minimize damage from fires. Wetlands provide in-flows of clean water to the rivers and estuaries through surface and groundwater connections and minimize urban runoff by filtering water.

(3) Ecological. Wetlands provide green space and biological diversity, and serve to cool the atmosphere. Wetlands act as productive biological

systems providing habitat, foraging and denning areas for listed, threatened and endangered species. Wetlands are important to our community values and aesthetic appearance.

(E) This Ordinance is intended to supplement federal and state laws regulating Wetlands and other Surface Waters in order to ensure that Wetlands and other Surface Waters continue to serve the important functions described herein.

(F) It is intended that the implementation of this Ordinance will accomplish the following objectives:

(1) Ensure that Owners and Developers of property containing Wetlands and other Surface Waters shall not be unconstitutionally deprived of the beneficial use of their property or inordinately burdened by the application of these regulations.

(2) Establish design standards and a process for review of applications for Development Permits for properties in which Wetlands and other Surface Waters exist.

(3) Establish Buffers between Wetlands and other Surface Waters and Development on adjacent lands and determine which allowable and conditional uses of property are compatible with the Wetlands and other Surface Waters and appropriate within the Buffers in a manner that is consistent with the provisions of the Comprehensive Plan.

(4) Prevent pollution of surface water and groundwater, provide protection from increased flooding, promote conservation corridors along all major rivers, streams and drainage ways, preserve natural drainage characteristics and fish and wildlife resources of the county, limit sediment discharges, provide for erosion control, and reduce detrimental impacts to drinking water.

(5) Prevent unnecessary or excessive expenditures of County funds to provide for essential services and utilities, which may be required as a result of misuse or abuse of Wetlands and other Surface Waters.

(6) Provide for appropriate Mitigation in the event of a loss of Wetlands and other Surface Waters.

Section 3. Application.

[AS AMENDED BY THE COMMITTEE]

(a) This Ordinance applies to all Development, as defined in this ordinance, and other activities, as specified below, that will occur within Wetlands and other Surface Waters and Buffers within the unincorporated area of Wakulla County, except as otherwise provided in this Ordinance.

[(b) additional activities regulated by this ordinance to come based on committee direction]

Sec. 32.004. Process.

(a) Applications for development orders must identify all wetland features. If no wetlands are present on the property, a certified statement must be made to that effect.

(b) Preliminary plats and non-residential site plans must include a topographic survey prepared by a licensed surveyor and mapper depicting site elevations at one-foot contour intervals.

(c) At the sole discretion of the community development director, an applicant may be required to provide additional information to support the location or absence of the wetlands depicted in the application. Additional information may include aerial photographs, estimations and/or delineations from biologists or environmental consultants, or certifications from the Department of Environmental Protection. A reasonable access shall be allowed for inspections for field verification. All information must be provided at the expense of the applicant.

(d) For developments where the subdivision of lots or construction activities do not extend into, nor impact the wetland buffer zone, wetlands may be estimated from topographic surveys and aerial photographs. If portions of the wetland buffer zone fall within proposed platted lots or may be impacted by development activity, an environmental consultant shall delineate and field-locate the limits of impacted wetlands. A binding letter of jurisdiction from the Florida Department of Environmental Protection shall be the final authority regarding jurisdictional wetlands.

(e) No clearing or construction activities shall be allowed within the wetlands or the wetland buffer zones, except for the allowable uses indicated within subsection 32.005(a).

(f) Any application that includes conditional uses as defined within subsection 32.005(b) outside of an already approved development order shall require a separate application and fee for Wakulla County review.

Sec. 32.005. Use of wetlands.

(a) Allowable uses.

- (1) Refuge for native wildlife.
- (2) Parks and recreation uses consistent with the purpose and intent of this chapter.
- (3) Conservation areas and nature trails.
- (4) Hunting, trapping and fishing, environmental education, and scientific research where not otherwise prohibited by law.
- (5) Boundary fences that do not alter the wetland hydrology.
- (6) Removal of non-native or exotic invasive plants as defined by Florida State regulations.

(b) Conditional uses.

- (1) The planning and zoning commission may grant a conditional use permit for:

The construction and maintenance of streets, roads and other access ways and utility rights-of-way or easements, including power lines and pipe lines, if essential to the productive use of land not designated as wetland. Such uses must be located and constructed as to minimize the detrimental impact on the wetland. Clustering away from wetlands is encouraged. Conservation easements are encouraged to protect wetlands and their buffers. For the productive use of land such as boat ramps, elevated walkways and/or docks, decks and boardwalks, access to marinas and/or other water dependent features. Wetland restoration, fire suppression and/or habitat management.

- (2) The Wakulla County Board of County Commissioners can grant a variance for the reasonable use of property in extraordinary circumstances by means of a super-majority (four (4) out of five (5)) vote.

- (3) Approval of conditional uses and/or variances may require mitigation of impacted wetlands.

Sec. 32.006. Design standards subsequent to the effective date of this chapter.

(a) Lots smaller than two (2) acres, platted subsequent to the effective date of this chapter, shall be exclusive of wetlands.

(b) An undisturbed natural buffer at least seventy-five (75) feet wide shall be maintained around the perimeter of any wetland as defined in section 32.001 of this chapter. Buffers may be accessed for utilities in order to serve upland areas only as necessary and with minimal impact to the buffer zone.

(c) Wetlands within new developments shall be placed in a conservation easement in favor of Wakulla County, the property owners association, or another entity approved by the county.

(d) The County of Wakulla, as a governmental body, shall not be exempt from this chapter nor from the rules and regulations found therein.

(e) Best management practices for erosion control, including, but not limited to, hay bales, silt fences, and temporary riprap, shall be maintained before, during, and after construction (until site stabilization) to protect wetland areas from intrusion and siltation, where appropriate.

Sec. 32.007. Administration and enforcement.

(a) Administration and enforcement of this chapter shall be the responsibility of the director of community development and the county administrator.

(b) If those wetlands in violation are determined to be jurisdictional, then reporting of the impacted wetlands by the county to the appropriate state or federal agencies shall occur.

(c) Determination of violations of this chapter will be the work of the code enforcement board pursuant to Chapter 162, Florida Statutes.

Sec. 32.008. Penalties.

(a) The Wakulla County Code Enforcement Board shall have the authority to levy fines, require restitution, restoration and mitigation when it is determined that wetlands contained within Wakulla County were impacted by any activity in violation of this chapter subsequent to this chapter becoming effective.

Upon determination of a violations of county ordinance by the code enforcement board, administrative fines may be imposed for up to five thousand dollars (\$5,000.00) per violation (must be irreparable or irreversible violation) or two hundred fifty dollars (\$250.00) per day (first violation)/five hundred dollars (\$500.00) per day repeat violation). An administrative fine is imposed when an order has not been complied with by the set time or upon a finding that a repeat violation has been committed.