

Topic:	Overlay District
Resource Type:	Regulations
State:	Georgia
Jurisdiction Type:	Municipal
Municipality:	County of Douglas
Year (adopted, written, etc.):	2002
Community Type - applicable to:	Urban; Suburban; Rural
Title:	County of Douglas Environmental Overlay District Ordinance
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Abstract

The ordinance establishes environmental overlay districts in order to protect the groundwater and wetlands of the community. Activities having the potential to impact the groundwater or wetlands are regulated, including the lot size for new homes which will require a septic tank or septic field, chemical or petroleum storage tanks, and any development within 100 feet of a wetlands area. The districts are marked on the town's Zoning maps.

Resource

Sec. 70.140. Environmental overlay districts.

1. Authority: The Official State of Georgia Department of Natural Resources Rules for Environmental Planning Criteria (chapter 391-3-16), established pursuant to O.C.G.A. section 12-2-8, the Metropolitan River Protection Act (O.C.G.A. sections 12-5-440 through 12-5-457), and other relevant rules and statutes.

2. Definitions: These definitions are also contained at section 30.020 of the zoning ordinance.

Aquifer: Any stratum or zone of rock beneath the surface of the earth capable of containing or producing water from a well.

Base zone: The primary zoning designation of a property that confers restrictions on buildings and land uses. All property in Douglas County has one base zone (such as R-1 single-family residential or C-3 general commercial), but properties may be further regulated by one or more overlay zoning districts.

Creek: (See "stream").

Free-flowing creek, stream, or river: (See "stream, regulated").

Impervious surface: Man-made structures, improvements and surfaces that prevent or significantly limit the infiltration of stormwater. Examples of impervious structures and improvements are: buildings, structures, roads, driveways, parking lots, decks, swimming pools, patios, and sidewalks. Examples of impervious materials often used to construct such improvements are asphalt, concrete, gravel, brick, stone, wood, asphalt shingles, metal, and composite materials.

Overlay zone: A zoning district which may be placed on property in addition to its base zoning. Property may be regulated by a single or by multiple overlay zones.

Recharge area: Any portion of the earth's surface, where water infiltrates into the ground to replenish an aquifer.

Regulated stream: (see "stream, regulated").

River: A natural, free-flowing watercourse that is typically of greater volume than a stream or creek.

Significant recharge area: Those areas mapped by the Georgia Department of Natural Resources in Hydrologic Atlas 18 (1989 edition).

Stream: A natural, free-flowing watercourse with either constant or intermittent flow of moderate volume typically less than that of a river.

Stream, regulated: A natural, free-flowing watercourse that meets certain criteria as established within the Watershed Protection District regulations. Such streams are subject to the requirements of the Watershed Protection District Regulations:

Stream buffer: A strip of natural indigenous vegetation (of width determined by the Watershed Protection regulations) adjacent and parallel to the bank of a regulated stream designed to preserve and improve the quality of water within the regulated stream and its watershed.

Watershed: The total area of land that is drained by a river or stream and its tributaries.

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.

Wetlands, jurisdictional: An area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

3. Characteristics of environmental overlay districts: These districts shall overlay the base zoning of properties so that all land within the various environmental overlay districts shall also have a base zoning classification. Each parcel within these overlay districts shall be subject to the regulations of both the base zoning district and the overlay district(s) within which it lies. If there is a conflict or redundancy between the regulations and standards of the base zone and the overlay zone, the more restrictive regulation shall govern.

4. Districts:

a. Groundwater recharge area protection district (GW). The GW 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.

The 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.

(1) 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), and sections (2) and (3) below.

(2) New homes served by a septic tank/drain field system shall be on lots having at least one hundred ten (110) percent 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.

(3) New mobile home parks shall be served by sanitary sewer.

(4) New agricultural waste impoundment sites shall be lined if they exceed fifty (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 5×10^{-7} cm/sec or other criteria established by the Natural Resource and Conservation Service.

(5) New above-ground chemical or petroleum storage tanks, having a minimum volume of six hundred sixty (660) gallons, shall have secondary containment for one hundred ten (110) percent of the volume of such tanks or one hundred ten (110) percent 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.

(6) 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 ten thousand (10,000) pounds or more on any one (1) day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and local fire code requirements.

b. Wetlands protection district (WP). The WP 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.

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.

The 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.

The Generalized Wetlands Map 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 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.

(1) No activity which 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 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 one hundred (100) feet of an area delineated as wetlands by the Generalized Wetlands Map as determined by county staff;

(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 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) 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.

(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.

(4) Prohibited uses. The following uses are prohibited within the wetlands protection district.

(a) Receiving areas for toxic or hazardous waste or other contaminants

(b) Hazardous or sanitary waste landfills;

(c) Any other use not specifically exempted as noted above or properly approved by Douglas County and relevant state and federal agencies.

c. Watershed protection districts. 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, 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 water resources unusable for recreation.

The purpose of these districts 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.

These 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 2--5 of chapter 5 of the 1994 Douglas County Comprehensive Plan.

All land within unincorporated Douglas County is regulated by one (1) of the watershed protection districts. The districts 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.

(1) General regulations for all watershed protection districts.

(a) Regulated streams, wetlands, and required stream buffers shall not be included as minimum lot area required by the zoning ordinance. Required stream buffers (but not regulated streams or wetlands) may be included in the gross land area for purposes of calculation of the percentage of a site's impervious surface area.

(b) All property within watershed protection districts may be developed or redeveloped as permitted by its base zoning, provided the development is also in compliance with these watershed protection regulations.

(c) The following uses are exempt from watershed protection district regulations (with some limitations and conditions as noted):

(i) Development and land use legally established prior to the adoption of these regulations.

(ii) Mining activities permitted by the Department of Natural Resources under the Surface Mining Act (outside of stream buffer areas).

(iii) 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.

(d) Criteria for regulated streams. All watercourses that appear as a solid or broken line on either the U.S.G.S Quadrangle Maps or the SCS Soil Survey for Douglas County, Georgia 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 county staff based on data analysis and/or field review:

(i) Evidence of significant water flow along the channel or bed of the watercourse, characterized by one (1) 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.

(ii) Evidence of hydric soils, hydrophytic vegetation, or wetlands in or around the channel or bed of the watercourse.

(iii) The watercourse drains an area of twenty (20) acres or greater.

(e) Watershed protection regulations table:

TABLE INSET:

	Dog River	Bear Creek	Anneewakee Creek (sub-watershed A)	Anneewakee Creek (sub-watershed B)	Sweetwater Creek	Beaver Run Creek sub-watershed	Gothards Creek sub-watershed	Other watersheds ⁶
Stream buffer width from bank of regulated stream ¹	200'	150'	100'	50'	50'	100'	50'	3 25'
Minimum setback for regulated activities ² from bank of regulated stream	250'	200'	150'	75'	50'	150'	50'	3 25'
Maximum impervious surface ⁴ area (with sewer)	15%	20%	25%	25%	N/A	25%	N/A	N/A
Maximum impervious surface ⁴ area (no sewer)	10%	15%	25%	25%	N/A	25%	N/A	N/A
Maximum residential density ⁵ (with sewer service)	1.5 du/ac	2.5 du/ac	N/A	N/A	N/A	N/A	N/A	N/A
Maximum residential density ⁵ (no sewer service)	1 du/ac	1 du/ac	N/A	N/A	N/A	N/A	N/A	N/A

Table footnotes:

1 See definition of "regulated stream" and regulated stream criteria in subsection (d) above.

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

3 Measured from edge of wetlands where present.

4 See definition of "impervious surface." For most development, impervious surface calculations shall be required on a lot-by-lot basis. However, in master planned communities, 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.

5 Density calculations shall exclude lakes, regulated streams, stream buffer areas, and wetlands. Density calculations may include streets, sidewalks, development lots, utility easements, amenities, and areas provided as protected greenspace in fee or by permanent conservation easement.

6 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)).

(f) Private artificial reservoirs. 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 buffers proposed.

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.

(g) Regulatory requirements for stream buffers. 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.

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 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 buffer.

(i) Sanitary sewer lines may be located along and across stream buffers, if it is determined by WSA that no reasonable design alternative exists.

(ii) Other utility lines may cross stream buffers, when it is determined by the utility provider that no reasonable design alternative exists.

(iii) Private driveways and public roads may cross stream buffers as near as possible to ninety (90) degrees when necessary and as approved by Douglas County in the subdivision or development review process.

(iv) 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.

(v) Cutting and clearing (with hand-held tools) of live trees less than 2 inches in caliper measure 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.

(h) Regulatory requirements for reservoir buffers.

(i) Buffers around public water supply reservoirs shall be maintained as required in the Watershed Management Plans for the respective reservoirs. In no case shall the required buffer be less than one hundred fifty (150) feet in width.

(2) Dog River watershed. This is a small water supply watershed that contains a reservoir. An intake for the Douglasville Douglas County water and sewer authority (WSA) is located on this reservoir. The watershed management plan for the Dog River reservoir drainage basin has been established by WSA to protect this water system. The following regulations are established to further protect the watershed.

(a) Stream buffer widths, setbacks from streams, impervious surface limits, and maximum residential density shall be regulated as specified in the table located in subsection (1)(e).

(b) Applications to rezone property to industrial classifications within the Dog River Watershed shall not be accepted for consideration by the staff nor be approved by the board of commissioners.

(3) Bear Creek watershed. This is a small water supply watershed that contains a reservoir. An intake for WSA is located on this reservoir. The watershed management plan for the Bear Creek reservoir drainage basin has been established by WSA to protect this water system. The following regulations are established to further protect the watershed:

(a) Stream buffer widths, setbacks from streams, impervious surface limits, and maximum residential density shall be regulated as specified in the table located in subsection (1)(e).

(b) Applications to rezone property to industrial classifications within the Bear Creek watershed shall not be accepted for consideration by the staff nor be approved by the board of commissioners.

(4) Anneewakee Creek watershed (including subwatersheds A and B). This is a small water supply watershed that does not contain a reservoir. An intake for WSA is located on this creek. The following regulations are established to protect the watershed:

(a) Stream buffer widths, setbacks from streams, impervious surface limits, and maximum residential density shall be regulated as specified in the table located in subsection (1)(e).

(b) Within subwatershed A, 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 ten thousand (10,000) pounds or more on any one (1) 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.

(5) Sweetwater Creek Watershed (including Beaver Run and Gothards Creek subwatersheds). This is a large water supply watershed. An intake for the City of East Point is located on this creek. This watershed also contains the Sparks Reservoir, an embayment of Beaver Run Creek, which is owned and managed by the City of East Point. A watershed management plan has been established to protect the reservoir. The following regulations are established to further protect the watershed:

(a) Stream buffer widths and setbacks from streams shall be regulated as specified in the table located in subsection (1)(e).

(b) New facilities located within seven (7) miles of a water supply intake or reservoir, 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 ten thousand (10,000) pounds or more on any one (1) 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.

(6) Other watersheds. Streams within areas of the county that are not classified as small or large water supply watersheds (such as the Chattahoochee River direct drainage basin and the Hurricane Creek watershed) are also worthy of protection for the welfare and safety of the public. The following regulations are established to protect these watersheds:

(a) Stream buffer widths shall be regulated as specified in the table located in subsection 1d.

d. Chattahoochee River protection district (CRP). All lands within 2,000 feet of the Chattahoochee River are protected by the Metropolitan River Protection Act (MRPA) as established in O.C.G.A. 12-5-440 through 12-5-457. The CRP district is depicted on the Douglas County zoning map coincident with the corridor of protection established by MRPA.

All land disturbance, land use, and development within the CRP must be reviewed by the Atlanta Regional Commission (ARC) as required by MRPA. No land use or development permit shall be approved by the county prior to the necessary review and approval by ARC pursuant to the requirements of MRPA.

(Amd. of 10-23-00)

Editor's note: An amendment of Oct. 23, 2000 replaced appendix A, section 70.140 with a new section 70.140. Former section 70.140 pertained to open space, reservoir open space, and reservoir drainage basin open space districts and derived from an Ord. of June 6, 2000.