

**Enacted October 16, 2000
(Amended January 4, 2005,
October 2, 2018, and
May 7, 2019
(need clarification on where
changes are to be made)**

**ENVIRONMENTAL CONSERVATION, ON-SITE SEWAGE
MANAGEMENT AND PERMIT ORDINANCE
OF EVANS COUNTY**

AN ORDINANCE PURSUANT TO THE CONSTITUTION AND LAWS OF THE STATE OF GEORGIA PROVIDING FOR HOME RULE AND LOCAL GOVERNMENT PROTECTION OF NATURAL RESOURCES TO PROVIDE MINIMUM STANDARDS FOR DEVELOPMENT IN CERTAIN ENVIRONMENTALLY SENSITIVE AREAS; TO REQUIRE PERMITS FOR NEW DEVELOPMENT; TO REGULATE INSTALLATION OF ON-SITE SEWAGE MANAGEMENT SYSTEMS; TO PROVIDE FOR AN EFFECTIVE DATE; TO PRESCRIBE PENALTIES; AND FOR OTHER PURPOSES.

WHEREAS, the Georgia Comprehensive Planning Act of 1989 and pursuant regulations by the Georgia Department of Community Affairs and the Georgia Department of Natural Resources charge local government with the protection of certain natural resources and the environment; and

WHEREAS, the Georgia Department of Human Resources "Rules of Public Health for On-Site Sewage Management Systems", Chapter 290-5-26, regulates installation of individual septic tank and other on-site sewage management systems, including those in the regulated natural resource areas; and

WHEREAS, wetlands groundwater recharge areas, and protected river corridors are among the critically sensitive environmental areas defined and mandated to be protected by local governments in the Georgia Department of Natural Resources' Environmental Protection Division's "Rules for Environmental Planning Criteria", Chapter 391-3-16, and the Georgia River Corridor and Mountain Protection Act of 1991; and

WHEREAS, there is need for local coordination of the requirements for on-site installation of sewage management systems and the local protection of certain environmentally sensitive areas.

NOW, THEREFORE BE IT ORDAINED, ESTABLISHED, AND DIRECTED BY THE EVANS COUNTY BOARD OF COMMISSIONERS BY THE AUTHORITY OF THE STATE OF GEORGIA AS GRANTED THEREOF AS FOLLOWS:

Section 1. Short Title. This Ordinance shall be known, referred to, and may be cited as the “Environmental Conservation, On-Site Sewage Management, and Permit Ordinance of Evans County”.

Section 2. Purpose. It is the intent and policy of the Evans County Board of Commissioners to promote the health, safety, convenience, order, prosperity, and general welfare of Evans County and its residents: to protect the natural resources, the environment, and the public health of Evans County; to facilitate the adequate provision of on-site sewage management for all development in the local jurisdiction; to protect significant groundwater recharge areas from pollution by spills, discharges, leaks, impoundments, applications of chemicals, injections, and other development; to promote the wise use of wetlands and protect them from alterations that will significantly affect or reduce their primary functions for water quality, flood plain and erosion control, groundwater recharge, aesthetic natural areas, and wildlife habitat areas; to establish measures to preserve an adequate supply of safe drinking water and a quality for State waters which is necessary to protect the health and welfare of the public as well as to provide for future growth; to protect the environment, including the soils, air quality, and water resources, from pollution and inappropriate development; to assist in the orderly, efficient, and integrated development of the county, and to require permits for new development or location within the county.

Section 3. Definitions. When used in this Ordinance, the following words and phrases shall have means given in this section.

A. **Hazardous Waste.** Any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency (US EPA) pursuant to the federal Act, which are in force and effect on February 1, 1998, codified as 40 C.F.R. Section 261, and as amended.

B. **Lot.** The contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley; but excluding any part thereof severed from another lot where the severance creates any nonconformity of size or use.

C. **Perennial River/Stream.** A river/stream or section of a river/stream that normally flows continuously throughout the whole year.

D. **Protected River Corridor.** All land, inclusive of islands, in areas of a protected river within a distance of one hundred (100) feet horizontally on both sides of the river measured from the uppermost part of the river bank; the area between the top of the bank and the edge of the water is included in the protected area.

E. **River/Stream Bank.** The rising ground, bordering a river or a stream, which serves to confine the water to the natural channel during the normal course of flow.

F. **Subdivision.** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale, legacy, or building development, whether immediate or future. This shall include all divisions or re-subdivisions of land involving a new road or change in existing roads. Excluded from this definition is the combination or recombination of portions of previously platted lots where the total number of lots is not increased.

G. **Utility.** 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, storm water systems and railroads or other utilities identified by a local government.

H. **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, hydrological vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

Section 4. General Provisions.

4.1 Permit Required. No building, mobile home, structure, or land within the jurisdiction of Evans County Board of Commissioners shall hereafter be erected, constructed, located, moved, used, subdivided, altered or disturbed except in conformity with the regulations herein and without first obtaining a permit from the Evans County Board of Commissioners. This provision does and shall apply to the location of all manufactured housing and industrialized buildings in the county.

4.2. Minimum Lot Size. All lots intended for residential or other use within the county shall be of such size as necessary to meet all requirements, rules, and regulations of the Georgia Department of Human Resources according to the “Rules of Georgia Department of Human Resources Public Health for On-Site Sewage Management Systems” Manual for On-Site Sewage Management; and as necessary to comply with the minimums set forth in the tables MT-1 and MT-2 hereby attached to and made a part of this Ordinance as Appendix 1, if on-site sewage management is utilized; and/or this Ordinance, whichever is stricter.

4.3 On-Site Sewage Management Permit Required. No person or business shall construct a non-site sewage management system on any lot within the county until site approval and an on-site sewage management construction permit has been obtained from and issued by the Evans County Health Department.

4.4 Permit Coordination. The required permit under Section 4.2. of this Ordinance shall not be issued until the Evans County Health Department issues an on-site sewage management construction permit or a site approval letter, whichever is appropriate, so that all lots proposed to be used or subdivided would satisfy the requirements of this Ordinance, including the “Rules of Georgia Department of Human Resources for On-Site Sewage Management Systems” If the Evans County Health Department is delegated the responsibility for administering this Ordinance, the permit or letter under this Section 4.4. shall suffice as the permit required under Section 4.1.

4.5. Requirements are Minimum. The regulations and requirements set by this Ordinance shall be the minimum requirements.

4.6. Compliance with State and Federal Regulations. All developments, structures, and uses within the county shall also meet the requirements of all other local, federal and state regulations in effect including but not limited to Department of Transportation regulations, State Fire Marshal regulations, Georgia’s Uniform Construction Codes, and Georgia Department of Natural Resources and Georgia Environmental Protection Division environmental rules and regulations. Issuance of a permit under this Ordinance does not constitute certification of compliance with such codes or regulations and does not abrogate responsibility of the owner to so comply.

4.7. Map Interpretation. If there is any uncertainty as to whether a lot, portion of lot, or a proposed construction or location impacts an environmental resource regulated by this Ordinance because of interpretation of the applicable map, the decision of the Evans County Board of Commissioners, or the Evans County Health Department, if it is delegated the responsibility for administering this Ordinance, shall take precedence and be considered correct and final but may be appealed as set forth in 4.8.

4.8. Map Appeal. Any person who feels aggrieved by a decision of the Evans County Board of Commissioners or the Evans County Health Department, as appropriate, regarding map interpretation may, at their own expense, request reconsideration. Such reconsideration shall include submission of scientific evidence for reversal of the alleged error in map interpretation, and such evidence must be documented by a State registered engineer, geologist, or soils scientist. To obtain a reversal of the decision of map interpretation, the evidence must be acceptable to Georgia Department of Natural Resources' Environmental Protection Division, and the Evans County Board of Commissioners, or/and the Evans County Health Department, if the Evans County Health Department is delegated responsibility for administering this Ordinance. Any costs for submission of evidence to the Georgia Department of Natural Resources' Environmental Protection Division shall be borne by the person requesting reconsideration.

4.9. Coordination with Zoning and Other Regulations. This Ordinance shall be coordinated with any zoning or other regulations adopted by the Evans County Board of Commissioners and, if there is any conflict with those zoning or other regulations, the stricter provisions shall apply. If zoning is or has been adopted, the provisions of this Ordinance shall be considered an overlay, or additional requirement(s) to the requirements of underlying zoning regulations and district.

4.10. Fees. Any fees for applications, inspections, and the issuance of permits or certificates required or issued under the provisions of this Ordinance shall be paid by the person seeking such permit at the time of application in advance of the issuance of such permits or certificates. The amount of such fees, if any, shall be those established by the Evans County Board of Commissioners from time to time.

Section 5. Delegation of Ordinance Administration. The Evans County Board of Commissioners because of the need for coordination hereby charges the Evans County Health Department and the Evans County Administrator with joint responsibility for administering this Ordinance and ensuring compliance with its provisions.

Section 6. Wetlands Protection Regulations.

6.1. Findings of Fact. The wetlands within Evans County are indispensable and fragile natural resources with significant development constraints due to flooding, erosion and soil 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; open space, and recreational opportunities.

6.2. Reference Map. The official maps to be used as the determinant for location of wetlands in Evans County and to be regulated areas under this Ordinance will be the U.S. Fish and Wildlife Service's National Wetlands Inventory Maps for Evans County. These maps portray generalized wetlands inventory areas, and these wetlands inventory areas do not necessarily represent the boundaries of jurisdictional wetlands under the authority of the U.S. Army Corps of Engineers and cannot serve as a substitute for a jurisdictional wetland determination or a wetland delineation by that agency.

6.3 Wetlands Development Permit Requirements. No activity or use except those identified in Section 6.4. shall be allowed within wetlands without a permit under this Ordinance. Activities or uses permitted under Section 404 of the U.S. Clean Water Act may receive a local permit once any required federal permit or, if appropriate, letter of permission/determination is obtained as describe4d below and any other applicable provisions of this Ordinance have been satisfied.

A. If there is a determination in the administration of this Ordinance that a proposed activity, use, or development subject to permit herein would not be located in or near an identified wetlands inventory area and would not disturb an identified wetlands inventory area, no further action concerning this particular Ordinance section is necessary.

B. If there is a determination in the administration of this Ordinance that a proposed activity, use, or development subject to permit herein may be located in or near an identified wetlands inventory area and might disturb wetlands which appear to be under the jurisdiction of Section 404 of the U.S. Clean Water Act, a U.S. Army Corps of Engineers' jurisdictional wetlands determination shall be required prior to issuance of a permit under this Ordinance.

C. If a U.S. Army Corps of Engineers' jurisdictional wetlands determination is required, no local permit under this Ordinance will be issued until the person requesting the permit, at their own expense, obtains either a Section 404 permit, if so required, or a letter of permission/determination from the U.S. Army Corps of Engineers that no federal permit is required.

D. No action in the administration of this Ordinance, or no local permit issued pursuant to this Ordinance relieves the landowner from any federal or State permitting requirements, including those relating to wetlands or land disturbance.

6.4. Permitted Uses Not Requiring a Permit. The following uses are permitted without permit within the wetlands of the County to the extent they are not prohibited by any other ordinance or law and provided they do not require structures, grading, fill draining, or dredging except as provided herein.

A. Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission. (Section 404 does not require permits for normal, ongoing silvicultural activities. However, Section 404 does list some required road construction best management practices that must be followed in order to qualify for such an exemption.)

B. Conservation or preservation of soil, water, vegetation, fish, or other wildlife, provided they do not affect waters of the State of Georgia or of the United States in such a way that would require a Section 404 Permit.

C. Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.

D. Natural water quality treatment or purification.

E. Normal agriculture activities including the planting and harvesting of crops and pasturing of livestock. Such activities shall be subject to best management practices approved by the Georgia Department of Agriculture.

6.5. Prohibited Uses. In compliance with the Georgia “Rules for Environmental Planning Criteria”, the following uses are prohibited entirely and no permit shall be issued for them.

A. Receiving areas for toxic or hazardous waste or other contaminants.

B. Hazardous or sanitary waste landfills.

Section 7. Groundwater Recharge Areas Protection Regulations.

7.1. Findings of Fact. Recharge areas are vulnerable to urban development activities as well as agricultural activities. Pesticides and herbicides sprayed on crops and animal waste, like septic tank effluents, contribute to a deterioration in the groundwater quality and can threaten the health of residents relying on well water. Development usually means an increase in the amount of land covered with impervious surfaces. Paving land in recharge areas can alter or impair their recharge characteristics thereby decreasing groundwater supplies.

7.2. Reference Map. The official map for delineation of significant groundwater recharge areas in Evans County to be regulated areas under this Ordinance is the Georgia Department of Natural Resources’ “Significant Recharge Areas, Hydrological Atlas 18” (1989 edition).

7.3 Groundwater Recharge Areas Development Permit Requirements. All uses except those identified in Section 7.4. and those subject to further restriction by any underlying zoning district are allowed. The following are additional requirements for specific uses:

A. All new above ground chemical or petroleum storage tanks, having a minimum volume of 660 gallons, shall have secondary containment for 110 percent of the volume of such tanks or 110 percent of the volume of the largest tank in a cluster of tanks, and shall otherwise meet the requirements of U.S. EPA rules for oil pollution prevention, 40 CFR 112.1. Such tanks used for agricultural purposes are exempt, provided they comply with all federal requirements.

B. All single-family dwellings, multi-family dwellings, mobile home parks, or other uses located within a groundwater recharge area and not served by both public water and sewer systems shall be required to have 150 percent of the minimum lot or space size calculated based on application of the Georgia Department of Human Resources Manual for On-Site Sewage Management Systems (DHR Manual) Tables MT-1 and MT-2 (included as part of this Ordinance in Appendix 1). The minimums set forth in Tables MT-1 and MT-2 may be increased further based on consideration of other factors (set forth in Sections A-F) of the DHR Manual. Said minimum lot size shall not be in any case less than the minimum lot size specified by any underlying zoning district. The regulations specifying the largest minimum lot size shall apply.

C. All lots shall have a minimum width of 150 feet, or as specified in any underlying zoning district if stricter (larger) in the area where an approved on-site sewage management system is to be located.

D. No construction may proceed on a building or mobile home to be served by a septic tank or other on-site sewage management system unless the Evans County Health Department first approves the proposed on-site sewage management system installation as meeting the requirements of the Georgia Department of Human Resources Manual for On-Site Sewage Management Systems and the provisions of this Ordinance.

E. All new wastewater treatment basins shall have an impermeable liner except for the construction of mining settling basins.

F. All new agricultural waste impoundment sites shall be lined. As a minimum, the liner shall be constructed of compact clay having a thickness of one foot (1) and a vertical hydraulic conductivity of less than 5×10^{-7} cm/sec or other criteria established by the U.S. Natural Resources Conservation Service.

7.4. Prohibited Uses. The following uses are prohibited entirely and no permit shall be issued for them.

A. All new hazardous waste storage, treatment and disposal facilities.

B. New facilities handling 10,000 pounds or more of hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976, as amended, excluding underground storage tanks, on any one day.

C. Permanent storm water infiltration basins.

Section 8. Major River Corridor Protection District Regulations.

8.1. Findings of Fact. Perennial river or water courses with an average annual flow of at least four hundred (400) cubic feet per second are of vital importance to Georgia in that they help preserve those qualities that make a river suitable for habitat for wildlife, a site for recreation, and a source for clean drinking water. These river corridors also allow the free movement of wildlife from area to area within the State, help control erosion and river sedimentation, and help absorb flood waters.

8.2. District delineation. Protected Rivers as defined under the Rules for Environmental Planning Criteria, adopted by Georgia Department of Natural Resources pursuant to Section 12-2-8 of Article 1, Chapter 2, Title 12 of the Official Code of Georgia Annotated, includes any perennial river or water courses with an average annual flow of at least four hundred (400) cubic feet per second. The Canoochee River through Evans County meets this criteria. A protected river corridor and a protective one hundred (100) foot vegetation buffer are hereby established along the entire length of this river within the jurisdiction of the Evans County Board of Commissioners. The buffer area is measured horizontally from each river bank within the County jurisdiction. Under the method prescribed by the Rules for Environmental Planning Criteria, no development or other land disturbing activity will be allowed to occur within the protected river corridor and within a one hundred (100) foot buffer of the river bank except for the following permitted uses.

8.3. Permitted Uses. No development, or construction, or other land disturbing activity will be allowed to occur within the one hundred (100) foot buffer from the protected river except for the following uses, and the natural vegetative buffer shall be restored as quickly as possible following any land-disturbing activity or construction permitted within the river corridor for these acceptable uses.

A. Single-family dwellings, if any underlying zoning district so permits, provided each dwelling is located on a lot with a minimum size as specified by the Evans County Health Department or the underlying zoning district regulations, but shall be the greater of these requirements; however, in any case, the lot for each dwelling shall not be less than two (2) acres, not including any area between the river banks; and provided the septic tank drain field is located outside of the one hundred (100) foot buffer area.

B. Any residential uses existing or under construction prior to the adoption of these local protection ordinances provided the use has an on-site sewage management construction permit issued by the Evans County Health Department prior to the date of adoption of these local protection ordinances.

C. Any industrial or commercial uses existing prior to the adoption of these local protection ordinances, providing they do not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended, and meet all other federal and State environmental regulations.

D. Road and utility crossings, providing the construction of these crossings meets the requirements of the Georgia Erosion and Sedimentation Act of 1975, as amended, or any local requirements, if stricter.

E. Timber production and harvesting, providing it is consistent with the best management practices established by the Georgia Forestry Commission and does not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.

F. Agricultural production and management, provided it is consistent with the best management practices established by the Georgia Soil and Water Conservation Commission, and all other State and federal laws and regulations, including those promulgated by the Georgia Department of Agriculture and does not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.

G. 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.).

H. Natural water quality treatment or purification.

I. Wastewater treatment.

J. Recreational usage consistent with the maintenance of a natural vegetative buffer or with river dependent recreation.

8.4 Prohibited Uses. In compliance with the Georgia “Rules for Environmental Planning Criteria”, the following uses are prohibited entirely and no permit shall be issued for them.

A. Facilities or areas used for the handling, receiving, storing, or disposal of hazardous wastes.

B. Hazardous or solid waste landfills.

C. Septic tank drain fields within the 100-foot buffer area under any circumstance.

D. Septic tanks within the 100-foot buffer area, except as expressly provided for single-family dwellings which are permitted under and comply with Section 8.3.A.

Section 9. Variances. When due to a particular hardship or extraordinary circumstance of the property involved which is not easily corrected, it is impractical for an owner or developer to comply with all of the requirements of this Ordinance, the Evans County Board of Commissioners shall be authorized to vary such requirements (under its jurisdiction) only to such extent as to provide fairness to the owner or developer and as to not violate the intent and purposes of this Ordinance. Such variances shall only be granted in an official public meeting, and the reasons for granting them shall be entered into the minutes of the public meeting.

Section 10. Violations and Penalties. Violation of these provisions, prohibitions, and installation restrictions by any private individual, land owner, builder, remodeler, contractor, licensed electrician, licensed plumber, septic tank dealer or installer, mobile or manufactured home dealer or mover, or developer, or installation and delivery of any utility services by a public or private utility to any property which holds a septic tank system installed against these prohibitions and restrictions, shall be a violation of this Ordinance.

Any person violating, neglecting, or refusing to comply with any provision of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be subject to such penalties as are provided by law.

Section 11. Court of Jurisdiction. The Evans County Board of Commissioners or the Evans County Board of Health, as appropriate, may bring complaints of violation of any provision of this Ordinance before either the Magistrate Court of Evans County or the State Court of Evans County, as so desired.

Section 12. Legal Status Provisions. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, for any reason, such declaration shall not affect the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 13. Conflicting Ordinances. Whenever the provision of this Ordinance and those of some other ordinance or statute apply to the same subject matter, that ordinance requiring the highest, or more strict, standard shall govern. All other ordinances and parts of ordinances in conflict with this Ordinance, to the extent of such conflict and not further, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 14. Effective Date. This Ordinance shall take effect and be in force on the date that it is enacted and ordained by the Evans County Board of Commissioners, Evans County, Georgia.