

TOWN COUNCIL

STAFF REPORT

Growth Management Department



MEETING DATE:	June 10, 2025
PROJECT:	Amendments to the Town of Bluffton's Municipal Code of Ordinances, Chapter 23 – Unified Development Ordinance, Article 5 – Design Standards, Sec. 5.3 (Tree Conservation, Planting & Landscaping), Sec. 5.4 (Wetlands) and Sec. 5.10 (Stormwater); and Article 9 – Definitions and Interpretation, Sec. 9.2 (Defined Terms) – Second and Final Reading – PUBLIC HEARING
PROJECT MANAGER:	Kevin P. Icard, AICP Director of Growth Management

INTRODUCTION: As set forth in Section 3.5.2 of the Unified Development Ordinance (UDO), “an application for a UDO Text Amendment may be initiated by a Town of Bluffton property owner, Town Council, Planning Commission, or the UDO Administrator when public necessity, convenience, State or Federal law, general welfare, new research, or published recommendations on zoning and land development justifies such action.” These amendments were initiated by the UDO Administrator.

REQUEST: The UDO Administrator requests approval of certain text amendments to the Town of Bluffton's Municipal Code of Ordinances, Chapter 23 – Unified Development Ordinance, Article 5 – Design Standards, Sec. 5.3 (Tree Conservation, Planting & Landscaping), Sec. 5.4 (Wetlands) and Sec. 5.10 (Stormwater); and Article 9 – Definitions and Interpretation, Sec. 9.2 (Defined Terms).

BACKGROUND: Wetlands, which are often referred to as bogs, bayous, marshes, or swamps, play a crucial role in protecting water quality and supporting aquatic ecosystems. They also help control flooding and can be a significant economic resource for local communities.

Certain wetlands that fall under the federal Clean Water Act (CWA) are protected by permitting programs managed by the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE). In May of 2023, the U.S. Supreme Court's decision in the case of *Sackett v. Environmental Protection Agency* (“*Sackett*”) altered the regulatory landscape for millions of acres of wetlands that were previously covered by the CWA. As a result of *Sackett*, many wetlands that the USACE deemed jurisdictional are no longer eligible for federal protection and are now vulnerable to development unless they are safeguarded by state or local laws. Currently, wetland regulations in South Carolina are limited, and, prior to March 11, 2025, the Town of Bluffton (“Town”) did not have a specific wetland protection ordinance.

Following the Sackett decision, the Town of Bluffton has begun implementing wetland protections within its jurisdiction. In May 2024, Town Council adopted a Wetland Buffer Ordinance within UDO Sec. 5.10.7. As a buffer requirement, this regulation did not apply to Development Agreements as existing buffer requirement language prevails.

In January of 2025, Town Council approved a Master Service Agreement (MSA) task authorization to McCormick Taylor Inc. and Center for Watershed Protection. This work will provide an inventory of wetlands within the Town's jurisdiction and produce maps of the wetlands to be protected.

Staff are proposing a wetland protection ordinance (**Attachment #1**) to replace the current language within UDO Sec. 5.10.7. This section will subsequently be amended, as necessary, based upon outcomes of the MSA scientific work, helping to ensure its defensibility and alignment with the Town's watershed and resilience goals. Associated definitions are also proposed.

On February 26, 2025, the Planning Commission recommended approval of the proposed text amendments as presented. On March 11, 2025, Town Council unanimously passed the proposed amendments on First Reading and Public Hearing by Pending Ordinance Doctrine. During this meeting, public comment posed questions about the proposed amendments. Town Council requested that staff incorporate the comments in preparation for Second and Final Reading.

The following changes to the proposed amendments, presented to Town Council on April 29, 2025, as part of the Quarterly Workshop, do not substantially deviate from those presented and adopted via pending doctrine:

- Revisions to general requirements:
 - Applicability change to all building, development, redevelopment, and site alteration *located on or immediately adjacent to any wetlands or wetland area versus within a wetland or wetland buffer area.*
 - UDO Administrator authority to issue, deny, or conditionally approve *impacts to wetlands and/or wetland buffer versus wetland certifications.*
 - Differentiation between USACE permits issued before and after September 8, 2023 ("*Sackett*").
- Revisions to exemptions and exceptions:
 - Increasing walkways from four (4) feet to five (5) feet to meet ADA compliance.
 - Removed the exemption language for clarity regarding repairs or maintenance of degraded device or structure.
 - Consolidation of redundancies in wetland delineation exceptions.
 - Inclusion of the UDO Administrator's discretion to except other development activities "after consideration of site constraints, existing reports, permits, covenants, and mitigation bank credits to adequately protect the wetland's water quality and mitigate any loss of or damage to wildlife habitat or native plant communities."

- Inclusion of the UDO Administrator’s discretion to deem additional measures necessary “including, but not limited to, reports, permits, covenants, and mitigation bank credits to adequately protect the wetland's water quality and mitigate any loss of or damage to wildlife habitat or native plant communities” prior to allowing an excepted activity.
- Revisions to wetland buffers and setbacks:
 - Removal of differentiation in types of wetland buffers for clarity.
- Revisions to defined terms:
 - Wetland definition updated to reflect correct federal manual for delineating wetlands.

REVIEW CRITERIA & ANALYSIS: When assessing an application for UDO Text Amendments, Town Council is required to consider the criteria set forth in UDO Section 3.5.3, Application Review Criteria. These criteria are provided below, followed by a Finding.

1. **Section 3.5.3.A.** Consistency with the Comprehensive Plan or, if conditions have changed since the Comprehensive Plan was adopted, consistency with the overall intent of the Plan, recent development trends and the general character of the area.

Finding. The proposed amendments are consistent with Comprehensive Plan policies for stormwater management.

2. **Section 3.5.3.B.** Consistency with demographic changes, prevailing economic trends, and/or newly recognized best planning practices.

Finding. The proposed amendments support best-planning practices for stormwater management.

3. **Section 3.5.3.C.** Enhancement of the health, safety, and welfare of the Town of Bluffton.

Finding. The proposed amendments support the general welfare of the Town and its residents.

4. **Section 3.5.3.D.** Impact of the proposed amendment on the provision of public services.

Finding. The proposed amendments have no relationship to this criterion.

5. **Section 3.5.3.E.** The application must comply with applicable requirements in the Applications Manual.

Finding. The application complies with all applicable requirements of the Applications Manual.

NEXT STEPS:

UDO Text Amendment Procedure	Date	Complete
Step 1. Planning Commission Public Hearing and Recommendation	February 26, 2025	✓
Step 2. Town Council – 1st Reading and Public Hearing	March 11, 2025	✓
Step 3. Town Council – Workshop	April 29, 2025	✓
Step 4. Town Council Meeting – Final Reading and Public Hearing	June 10, 2025	✕

TOWN COUNCIL ACTIONS: As granted by the powers and duties set forth in Sec. 2.2.6.C.4 of the UDO, Town Council has the authority to take the following actions with respect to this application:

1. Approval of the application as submitted;
2. Approval of the application with amendments; or
3. Denial of the application as submitted by the Applicant.

ATTACHMENTS:

1. Proposed Ordinance (Amendments)
2. Suggested Motion