

TOWN COUNCIL

STAFF REPORT

Growth Management Department



MEETING DATE:	April 29, 2025
PROJECT:	Discussion of a Proposed Ordinance to Amend the Town of Bluffton 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)
PROJECT MANAGER:	Kevin P. Icard, AICP Director of Growth Management

REQUEST: To provide direction on the 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 the Town of Bluffton (“Town”) does 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 does 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 is 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.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission recommended approval of the proposed text amendments as presented. See **Attachment 1** for the proposed amendments.

TOWN COUNCIL FIRST READING & PUBLIC HEARING: During the March 11, 2025, Town Council 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 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.*

MEANING – the Town wants to determine if there is a wetland or wetland buffer on your property; a stormwater permit will be required to determine if there are any wetland or wetland buffer impacts.

- UDO Administrator authority to issue, deny, or conditionally approve *impacts to wetlands and/or wetland buffer versus wetland certifications.*

MEANING – we are clarifying that we are not delineating wetlands but rather reviewing the impact permit.

- Revisions to exemptions and exceptions:
 - Increased 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."

MEANING – the UDO Administrator may use their discretion to exempt a project from the buffer requirement if they have an existing approved state or federal wetland permit as of March 11, 2025, as an example.

- 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.

MEANING – the UDO Administrator may request additional information to show adequate protection of the wetlands.

- Revisions to wetland buffers and setbacks:
 - Removal of differentiation in types of wetland buffers for clarity.

CONSIDERATIONS: Below is a list of items for your considerations, should you choose to move forward.

- a. Consideration of revisions to general requirements.
- b. Consideration of revisions to exemptions and exceptions.
- c. Consideration of revisions to wetland buffers and setbacks.

If so, Staff will move forward with amendments to UDO Sec. 5.3, 5.4, 5.10, and 9.2. Below is a tentative timeline:

- a. Town Council 2nd and Final Reading – May 13, 2025

ATTACHMENTS:

1. Proposed Ordinance (Amendments)