

- **Sec. 30-246. - Jurisdictional wetland determination required.**

a) If a major **residential** subdivision (**10 lots or more**) proposed for development, **or any non-residential property** is located within 50 feet of a wetland as shown on the generalized wetlands map, as determined by the land use officer, no local land use permit on said wetland shall be issued until a jurisdictional wetland determination has been completed and either of the following occurs:

- (1) The U.S. Army Corps of Engineers determines that there are jurisdictional wetlands present on the proposed **residential or non-residential** development site, a Section 404 permit is required, and either a Section 404 permit or a letter of permission is issued by the Corps for the proposed development: or,
- (2) The U.S. Army Corps of Engineers determines that jurisdictional wetlands are not present on the proposed **residential or non-residential** development site, and no Section 404 permit or letter of permission is required. **This determination shall be in writing and submitted to the County.** Should it be determined that no jurisdictional wetlands are located within the major subdivision **or any non-residential property**, the plat of the subdivision **or non-residential site is** to be recorded by a licensed surveyor **who shall then submit a letter indicating their findings and their approval prior to County acceptance.**

(b) If an area within a minor **residential** subdivision (**6-9 lots**) or **a simple subdivision on a stand-alone property** proposed for development is located within 50 feet of a wetland as shown on the generalized wetlands map, as determined by the land use officer, no local land use and/or building permit on said wetland shall be issued until either of the following occurs:

- (1) The U.S. Army Corps of Engineers determines that there are jurisdictional wetlands present on the proposed development site, a Section 404 permit is required, and either a Section 404 permit or a letter of permission is issued by the Corps for the proposed development; or
- (2) The U.S. Army Corps of Engineers determines that jurisdictional wetlands are not present on the proposed development site, and no Section 404 permit or letter of permission is required; or
- (3) Documentation from a competent environmental professional qualified to determine the location of wetlands is provided to the zoning administrator that said property does not contain a jurisdictional wetland, or that the subject development proposal will not disturb wetlands found to exist on the site. Said documentation shall specifically include the reference that the wetlands identification or finding that the site is outside of a jurisdictional wetland is based on a field study of the subject property and application of the federal manual for identifying and delineating wetlands.

(c) Issuance of a county land use and/or building permit under this part will not guarantee the issuance of a permit, or of a permit with any specific provisions, by the Army Corps of Engineers; and the county and its commissioners and staff shall not be liable to the applicant, permit holder, successor in interest thereof, or any third party if the Army Corps of Engineers does not issue a permit or issues a permit under terms different from that issued by the county. The applicant, permit holder, successor in interest thereof, or any third party will be proceeding at his or her own risk in developing the property and any county government action under this section does not relieve them from federal or state permitting requirements.

(Ord. of 11-6-12; Ord. of 6-21-16, § 1)