

## GEORGIA<sup>1</sup>

### *State Authority for Marine Protection*

#### Summary of State Authority

Management of natural resources in Georgia generally falls under the jurisdiction of the Georgia Department of Natural Resources. Georgia statutes give the Department the authority to acquire and regulate two types of management areas: heritage preserves and natural areas. The Department has promulgated protective regulations pursuant to these authorities. The Department also has created and managed Public Fishing Areas and Wildlife Management Areas based on its power to regulate fishing and hunting, respectively. In addition, the Department has the authority to regulate and protect the habitats of sensitive species on state lands; however, the authors found no examples of the use of this authority.

SUMMARY	Heritage Trust Act of 1975	Georgia Natural Areas Act	Public Fishing Area & Wildlife Management Areas	Coastal Marsh & Shoreline Protection	Endangered Wildlife Act of 1973
<b>Legal requirement</b>	Protects best & most important uses of a nature preserve	Protects natural conditions within certain state lands	Regulates fishing & hunting within specific areas for public enjoyment	Establishes permitting program & protection for shoreline & coastal marsh areas	Protects rare, threatened, or endangered species
<b>Citation</b>	GCA § 12-3-70 (1975)	GCA § 12-3-90 (1966)	GCA § 27-4-11.1 (1981) & Reg § 391-4-2-.10	GCA §12-5-230 et seq (1981); GCA §12-5-280 et seq (1971)	GCA § 27-3-132 (1973)
<b>Designation authority</b>	Georgia Department of Natural Resources (GADNR)	GADNR	GADNR	GADNR	GADNR
<b>Management &amp; enforcement authority</b>	GADNR	GADNR	GADNR	GADNR	GADNR
<b>Jurisdiction &amp; boundaries</b>	Any land within the state	Any state-owned land	State-owned land & water	Coastal marshlands & beaches, dunes, sandbars, and shoals	Any state-owned land
<b>Prohibited</b>	Activities that	Activities that	Unregulated	Unpermitted	Taking of rare,

<sup>1</sup> This state chapter is part of a 23-state assessment of state and local authority for marine protection. It should be read in conjunction with the Executive Summary, Introduction and Methodology Chapters in order to fully understand the scope and approach. Other chapters are available at [www.eli-ocean.org/mpa](http://www.eli-ocean.org/mpa).

SUMMARY	Heritage Trust Act of 1975	Georgia Natural Areas Act	Public Fishing Area & Wildlife Management Areas	Coastal Marsh & Shoreline Protection	Endangered Wildlife Act of 1973
uses	threaten the best & most important uses of the preserve	may damage significant ecological resources	fishing & hunting other disruptive activities	land alteration for dunes, etc & unpermitted dredge & fill	threatened, or endangered species
Permitted uses	Compatible uses as permitted by GADNR	Compatible uses as permitted by GADNR	Regulated fishing & hunting	Permitted uses & activities conducted pursuant to letter of permission	None identified by statute

### Heritage Trust Act of 1975

The Heritage Trust Act of 1975 gives the Georgia Department of Natural Resources (GADNR) the power to acquire and manage lands with “unique natural characteristics” as heritage preserves.<sup>2</sup> Preserves can contain dry land, marsh, or water.<sup>3</sup> All preserves must be managed for the benefit of the public.<sup>4</sup> Each preserve also contains one or several primary uses. Other management uses must be compatible with the primary uses.<sup>5</sup> However, a state entity can petition the Board of Natural Resources (Board) to conduct incompatible uses if the proposed uses are “imperative and [an] unavoidable necessity.”<sup>6</sup> The Board must solicit public testimonies regarding the incompatible uses and take them into consideration during its deliberative process.<sup>7</sup> Lastly, the incompatible uses can take place only after the state Assembly finds them to be in the public’s interest and approves them.<sup>8</sup>

For example, the Ossabaw Heritage preserve was dedicated specifically for the “natural, scientific, and cultural study, research, and education and environmentally sound preservation, conservation, and management of the island’s ecosystem.”<sup>9</sup> GADNR has banned most hunting activities, camping, and building of new structures on Ossabaw Island.<sup>10</sup> Ossabaw Island is inhabited, and various forms of public recreations are allowed under current regulations.<sup>11</sup>

<sup>2</sup> G.C.A. § 12-3-70 *et seq.* (2013).

<sup>3</sup> G.C.A. § 12-3-72(2) (2013).

<sup>4</sup> G.C.A. § 12-3-76(a) (2013).

<sup>5</sup> G.C.A. § 12-3-75 (2013).

<sup>6</sup> G.C.A. § 12-3-76(a)(1) (2013).

<sup>7</sup> G.C.A. §§ 12-3-76(a)(2)-(3) (2013).

<sup>8</sup> G.C.A. § 12-3-76(a)(4) (2013).

<sup>9</sup> Governor George Busbee, State of Georgia Executive Order- June 15, 1978 (1978).

<sup>10</sup> G.C.R. & reg. § 391-4-2-.70 (82) (2013); Georgia Department of Natural Resources- Wildlife Resources Division, Ossabaw Island Comprehensive Management Plan, pp. 40, 56, 57 (2001) (Ossabaw Island is also designated as a Wildlife Management Area; the regulation is unclear as to which authority GADNR is specifically rely on).

<sup>11</sup> Georgia Department of Natural Resources- Wildlife Resources Division, Ossabaw Island Comprehensive Management Plan, pp. 41-44, 57 (2001).

The designation process for heritage preserves is straightforward. DNR can dedicate any state land as heritage preserve once it receives written approval from DNR's board and the governor.<sup>12</sup> Upon approval, DNR must specify the most important uses of the preserve as part of the dedication.<sup>13</sup> The statute does not provide any mechanism for public participation during the nomination or designation process.<sup>14</sup>

### Georgia Natural Areas Act

The Georgia Natural Areas Act (GNAA) was passed in 1996.<sup>15</sup> The Act recognizes the importance of open areas in their natural states for their scientific, educational, and general welfare values.<sup>16</sup> The Act gives GADNR the power to designate and list state lands with significant ecological resources as natural areas.<sup>17</sup> The Act also calls upon the Department to cooperate with other state and federal authorities in designating and managing new natural areas.<sup>18</sup> The law applies to "tracts of land," but the language does not specify whether "land" can include submerged or tidal lands.<sup>19</sup> Regulation suggests that the Department's has exercised its GNAA authority over salt marshes.<sup>20</sup>

The Act gives GADNR the power to "take such other action as may be deemed advisable to facilitate the administration, development, maintenance, or protection of the natural area system or any part or parts thereof."<sup>21</sup> GADNR's website indicates that the Department is actively managing the natural areas for conservation purposes.<sup>22</sup> The Department has used its power under the Natural Areas Act to protect sea bird habitats.<sup>23</sup> Public access to areas such as Satilla River Marsh Island Natural Area and Egg Island Bar Natural Area is forbidden in consideration of nesting sea birds.<sup>24</sup> The language of the regulation also suggests that GADNR has reserved the power to manage any natural area for environmental conservation.<sup>25</sup>

Neither GNAA nor the habitat protection regulation contains specific penalty provision or public participation process. General rules for public petition are listed in Section 391-1-1-05 of the Georgia Administrative Code.<sup>26</sup> The general penalty assessment process for GADNR is detailed in Section 391-1-2.<sup>27</sup>

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<sup>12</sup> G.C.A. § 12-3-75 (2013).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> G.C.A. § 12-3-90 *et seq.* (2013).

<sup>16</sup> G.C.A. § 12-3-91 (2013).

<sup>17</sup> G.C.A. § 12-3-93 (2013).

<sup>18</sup> *Id.*

<sup>19</sup> G.C.A. § 12-3-92 (2013).

<sup>20</sup> G.C.R. & Reg. § 391-4-7-.03 (2013)(protecting salt marsh and shoreline habitat for shorebirds and seabirds).

<sup>21</sup> G.C.A. § 12-3-93(5) (2013).

<sup>22</sup> See <http://georgiawildlife.org/node/587> (Last visited Jul. 19<sup>th</sup>, 2013).

<sup>23</sup> G.C.R. & Reg. § 391-4-7-.03 (2013).

<sup>24</sup> *Id.*

<sup>25</sup> G.C.R. & Reg. § 391-4-7-.01 (2013).

<sup>26</sup> (2013).

<sup>27</sup> (2013).

## Public Fishing and Wildlife Management Areas

### **Public Fishing Areas**

GADNR has the power to establish and manage Public Fishing Areas (PFAs).<sup>28</sup> The purpose of this designation is to create areas available for public recreational fishing. As part of its power to manage PFAs, state law also gives GADNR great discretions to restrict fishing or even close a PFA altogether to fishing in order to rebuild depleted stocks.<sup>29</sup> The Department can charge any individual who enters a PFA without complying with GADNR regulations with criminal trespass.<sup>30</sup>

GADNR has promulgated regulations that restrict activities within PFAs. These include catch limits, size limits, time limits, gear restrictions, and a general prohibition to sail vessels, swim, and rock climb near a PFA.<sup>31</sup> However, GADNR has not designated any PFAs within the coastal zone, even though the statute has not specifically restricted the designation of PFAs to only freshwater water bodies.<sup>32</sup> Neither the statute nor the regulations contains any PFA-specific designation process.<sup>33</sup>

### **Wildlife Management Areas**

GADNR has designated various Wildlife Management Areas (WMAs) within Georgia using its authority to manage the state's wildlife.<sup>34</sup> GADNR has power to manage hunting and various other activities within the WMAs.<sup>35</sup> Any breach of GADNR regulations within a WMA can give rise to criminal charges.<sup>36</sup> No specific public petition process for WMA designations was identified; however, the regulations do have general rules allowing any person to petition the Board of Natural Resources for promulgation, amendment or repeal of a rule.<sup>37</sup>

Georgia currently has several WMAs on the coast.<sup>38</sup> The existing WMAs do not extend into the Atlantic Ocean.<sup>39</sup> However, the Altamaha Wildlife Management Area contains significant estuarine habitats.<sup>40</sup> Activities within these areas are regulated. For instance, timber harvesting, hunting, and visitor traffic

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<sup>28</sup> G.C.A. § 27-4-11.1 (2013).

<sup>29</sup> *Id.* at (b).

<sup>30</sup> G.C.A. § 27-1-33 (2013); G.C.R. & Reg. § 391-1-2-.09 (2013).

<sup>31</sup> G.C.R. & Reg. §§ 391-4-3-.06, .09 (2013)

<sup>32</sup> See <http://www.georgiawildlife.org/fishing/public-fishing-areas> (last visited Jul. 19<sup>th</sup>, 2013).

<sup>33</sup> G.C.R. & Reg. § 391-1-1-.05 (2013).

<sup>34</sup> G.C.A. § 27-1-4 (2013); § 27-1-6 (2013); G.C.R. & Reg. § 391-4-2-.10 (2013).

<sup>35</sup> *Id.*

<sup>36</sup> G.C.A. § 27-1-33 (2013); G.C.R. & Reg. § 391-1-2-.09 (2013).

<sup>37</sup> G.C.R. & Reg. § 391-1-1-.05 (2013).

<sup>38</sup> See <http://www.georgiawildlife.com/maps/hunting/region7> (last visited Jul. 19<sup>th</sup>, 2013).

<sup>39</sup> See Map of Ossabaw Island Wildlife Management Area, available at [http://www.georgiawildlife.com/sites/default/files/uploads/wildlife/maps/wma/region7/Ossabaw\\_WMA\\_Color.pdf](http://www.georgiawildlife.com/sites/default/files/uploads/wildlife/maps/wma/region7/Ossabaw_WMA_Color.pdf) (last visited Jul. 19<sup>th</sup>, 2013).; see also Map of Sapelo Island Wildlife Management Area, available at [http://www.georgiawildlife.com/sites/default/files/uploads/wildlife/maps/wma/region7/Sapelo\\_Island\\_WMA\\_Color.pdf](http://www.georgiawildlife.com/sites/default/files/uploads/wildlife/maps/wma/region7/Sapelo_Island_WMA_Color.pdf) (last visited Jul. 19<sup>th</sup>, 2013).

<sup>40</sup> See Map of Altamaha Wildlife Management Area (East), available at [http://www.georgiawildlife.com/sites/default/files/uploads/wildlife/maps/wma/region7/Altamaha\\_WMA/Altamaha\\_WMA\\_East\\_Color.pdf](http://www.georgiawildlife.com/sites/default/files/uploads/wildlife/maps/wma/region7/Altamaha_WMA/Altamaha_WMA_East_Color.pdf) (last visited Jul. 19<sup>th</sup>, 2013).

are regulated within the Richard J. Reynolds Wildlife Management Area, which constitutes part of the Sapelo Island National Estuarine Research Reserve.<sup>41</sup>

## Coastal Marsh and Shore Protection

### *Coastal Marsh Protection*

Georgia established the Coastal Marshlands Protection Act in 1970 in order to “ensure that the values and functions of the coastal marshlands are not impaired,” recognizing the state’s public trust responsibility to current and future generations.<sup>42</sup> In accordance with the Act, dredge and fill or otherwise alteration of marshlands is prohibited without obtaining a permit from the Coastal Marshlands Protection Committee.<sup>43</sup> If there “appears to be sufficient public interest,” the Committee has the authority to hold a public hearing regarding the permit. The Committee must consider whether or not unreasonable harm to the marshlands will occur, including obstruction or alteration of flow, erosion, shoaling of channels, and stagnation.<sup>44</sup> Also, the Committee must consider whether the proposed activity will unreasonably interfere with the marsh’s living resources.<sup>45</sup>

### *Shore Protection*

The Shore Protection Act is similar to the Coastal Marsh Protection Act in that it establishes a permitting system to protect and manage dune, beach, sand bar, and shoal resources (known as the sand-sharing system),<sup>46</sup> recognizing the importance of these resources as buffers to provide protection from “damaging effects of floods, winds, tides, and erosion.”<sup>47</sup> In particular, the Act requires a permit for erecting structures or engaging in land alteration “which alters the natural topography or vegetation of any area” within the areas covered by the Act. The Act establishes a variety of requirements that must be met when issuing permits in the sand-sharing system that balance protection and utilization of the resource.<sup>48</sup>

## Endangered Wildlife Act of 1973

The Georgia Endangered Wildlife Act of 1973 gives GADNR the authority to prevent take of rare, threatened, or endangered species on state lands.<sup>49</sup> GADNR has since prohibited any destruction of any listed species’ habitat.<sup>50</sup> Destruction of habitats or other forms of take can lead to misdemeanor charges.<sup>51</sup> The state lists various marine animals as rare, threatened, or endangered, including several species of whales and sea turtles.<sup>52</sup> The authors did not identify specific habitat designations within the

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<sup>41</sup> Sapelo Island National Estuarine Research Reserve Estuarine Research Reserve, Sapelo Island National Estuarine Research Reserve Management Plan 2008-2013, 99-103 (2008).

<sup>42</sup> G.C.A. § 12-5-281 (2013).

<sup>43</sup> G.C.A. § 12-5-286(a)(1) (2013).

<sup>44</sup> G.C.A. § 12-5-286(f) (2013).

<sup>45</sup> *Id.*

<sup>46</sup> G.C.A. § 12-5-230 et seq. (2013).

<sup>47</sup> G.C.A. § 12-5-231 (2013).

<sup>48</sup> G.C.A. § 12-5-239 (2013).

<sup>49</sup> G.C.A. § 27-3-132 (2013).

<sup>50</sup> G. C. R. & Reg. § 391-4-10-.06(a)(3) (2013).

<sup>51</sup> G.C.A. § 27-3-133 (2013); G. C. R. & Reg. § 391-4-10-.08 (2013); G.C.R. & Reg. § 391-1-2-.09 (2013).

<sup>52</sup> G. C. R. & Reg. § 391-4-10-.10 (2013).

regulations.<sup>53</sup> However, the GADNR website indicates that the Department is actively managing sea turtle habitats on the state’s beaches.<sup>54</sup> Lastly, the regulation does list private donation of lands as a possible route to establishing protected area.<sup>55</sup>

*Evaluation of State Authorities<sup>56</sup>*

FACTORS	Heritage Preserves	Georgia Natural Areas Act	Public Fishing & Wildlife Management Areas	Coastal Marsh & Shoreline Protection	Endangered Wildlife Act of 1973
<b>Legal Regime</b>	★★★★★ Regulatory	★ Voluntary	★★★★★ Regulatory	★★★★★ Regulatory	★★★★★ Regulatory
<b>Ocean Jurisdiction</b>	★★★★★ Statute allows designation on both dry land and water under state ownership	★★ Tracts of land, includes beaches & marshes in practice	★★★★★ Land and waters (no designations in marine environment)	★★ Esuarine and beach/tidal	★★★ Any waters (no existing designations)
<b>Durability</b>	★★ Indeterminate	★★ Indeterminate	★★ Indeterminate	★★ Indeterminate	★★ Indeterminate
<b>Consistency</b>	★★★★★ Mandates year-round protection	★★★★★ Designation is year-round	★★★ Authorizes year-round protection	★★★★★ Authorizes year-round protection	Unknown
<b>Habitat</b>	★★★★★ Protects habitat for unique characteristics	★★★★★ Goal includes habitat protection	★★ Habitat protection incidental to fish management	★★★★★ Goal is habitat protection	★★ Habitat protection as part of species conservation
<b>Sector</b>	★★★★★ Mandates multiple sectors	Managed	★★ Authorizes single-sector (hunting/fishing)	★★★★★ Authorizes multi-sector	★★★★★ Mandates multiple sectors
<b>Enforcement</b>	★★ Penalty assessment criteria in general regulation	Not enforceable without additional actions to protect	★★★★★ Statute includes criminal charges <sup>57</sup>	★★★★★ Specific statutory civil penalties included <sup>58</sup>	★★ Statute includes criminal charges but no schedule
<b>Extent</b>	★★★★★ Multiple sites and allows expansion	★★★★★ Multiple sites and allows expansion	★★★★★ Multiple sites and allows expansion	★★★★★ Multi-site, potential expansion based on resources	No existing sites
<b>Process for Expansion</b>	★★ No public process for expansion identified	★★ No public process for expansion identified	★★ No public process for expansion identified	★★ No public process for expansion identified	★★ No public process for expansion identified

<sup>53</sup> See G. C. R. & Reg. § 391-4-10 (2013).

<sup>54</sup> See <http://georgiawildlife.com/node/1804> (last visited Jul. 19<sup>th</sup>, 2013).

<sup>55</sup> See G. C. R. & Reg. § 391-4-10-.04 (2013).

<sup>56</sup> For an explanation of the evaluation matrix and criteria, please see the Introduction and Methodology Chapters.

<sup>57</sup> G.C.R. § 27-1-33 (2013).

<sup>58</sup> *Id.*

The Heritage Trust Act and the Natural Areas Act give the GADNR authority to undertake conservation measures on state-owned lands. The power to regulate PFAs and WMAs can further supplement these efforts, despite the fact that these two classes of designations are primarily used to promote recreational extraction of natural resources. Lastly, Georgia’s Endangered Wildlife Act also provides the state with regulatory authorities over state lands. However, none of the statutes and regulations that allow the establishment of conservation areas regulates activities on private lands. Furthermore, none of the statute gives the public a meaningful pathway to participate in the designation processes.

*Local Authority for Marine Protection*

**Summary of Local Authority**

Georgia law gives local governments the power to protected lands for conservation purposes through its Land Conservation Program and the Heritage Trust Act of 1975. Both options allow local governments to actively manage protected areas as landowners. The Land Conservation Program also allows local governments to prevent degradation as holders of conservation easements. Planning law in Georgia also gives local government discretion to create conservation areas protected from development. In accordance with state law, the State of Georgia (and not local government) retains the sole right to regulate hunting, trapping, and fishing.

SUMMARY	Georgia Land Conservation Program	Heritage Preserves Transfers	Local Planning Authority
<b>Legal requirement</b>	Allows local governments to acquire titles or conservation easements in lands	Allows transfer of heritage preserve property from agency to local governments with removal of dedication and accompanying conservation easements	Allows local governments to create conservation areas protected from development
<b>Citation</b>	GCA 12-6A-1 (2005)	GCA 12-3-70 (1975)	GCA 36-70-3 (1997)
<b>Designation authority</b>	Local governments, GADNR	Local governments, GADNR	Local governments, GADNR
<b>Management &amp; enforcement authority</b>	Local governments	Local governments	Local governments
<b>Jurisdiction &amp; boundaries</b>	Any land within Georgia	Heritage preserves within local boundaries	All land within a local government’s jurisdiction
<b>Prohibited uses</b>	Activities detrimental to conservation project’s goals	Activities detrimental to the best and most importance uses of the original heritage preserve	Development generally
<b>Permitted uses</b>	Permissible activities as regulated by the conservation project	Any activities not harmful to the preserve’s original uses as regulated by local government	Non-development activities and specific development exceptions based on local comprehensive plans

## Georgia Land Conservation Program

The Georgia Land Conservation Program is an incentive-based program that provides support for city or county projects that promote permanent land conservation and protection and are multijurisdictional in scope.<sup>59</sup> In addition, the project proponents must identify and demonstrate commitment to employ local ordinances to achieve protection.<sup>60</sup> The program is an extension of Georgia's former Greenspace Program.<sup>61</sup>

The statute and regulation are ambiguous as to whether projects can include coastal wetlands and coastal waters. As part of a local government's application for funds, it is required to disclose how much area within its jurisdiction is already protected by the program.<sup>62</sup> GADNR regulation instructs counties to not count any coastal marshlands or coastal water as part of the total protected area for the purpose of calculating existing coverage, but it does not state that these areas cannot become protected under the program.<sup>63</sup> Map from the program's own website shows that several local conservation projects under the program are located on the coast.<sup>64</sup> The City of Tybee Island currently receives state funding for its conservation project around the Savannah River Estuary.<sup>65</sup>

The land conservation statute allows any state or local government entity or NGO to apply for funding for conservation projects.<sup>66</sup> However, the GADNR regulations only contain an approval process for applications from local governments.<sup>67</sup> That being said, the regulations require the Commission and GADNR to consider whether the local governments have committed to the conservation projects by enacting complimenting ordinances as part of an application.<sup>68</sup> Thus, projects without local governments' involvement may not be approved in the first place.

The petition process for state funding involves multiple steps.<sup>69</sup> If a local government wishes to initiate a conservation project, it must submit a written notice to the Council.<sup>70</sup> The local government must also invite all impacted government entities and any NGO that may have an interest in the conservation project to a public hearing.<sup>71</sup> The applicant government then must submit a report detailing how it will execute the project along with a letter of transmittal restating its intent to receive funding as well as a complete list of the attendees from its public hearing.<sup>72</sup> Once all documents are in order, the Commission may remand the application back to the applicant government once for refinement.<sup>73</sup> If the

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<sup>59</sup> G.C.A. § 12-6A-1 *et seq.* (2013); *see also* <http://glcp.georgia.gov/about-glcp> (last visited Jul. 19<sup>th</sup>, 2013).

<sup>60</sup> G.C.A. § 12-6A-5(f).

<sup>61</sup> G.C.A. § 36-22-1 (2013).

<sup>62</sup> G.C.R. & Reg. § 391-1-4-.10(b)(7) (2013).

<sup>63</sup> G.C.R. & Reg. § 391-1-4-.04 (2013).

<sup>64</sup> *See* Map of Conservation Lands in Georgia, available at <http://glcp.georgia.gov/sites/glcp.georgia.gov/files/Consland2011.pdf> (last visited Jul. 19<sup>th</sup>, 2013).

<sup>65</sup> *See* <http://glcp.georgia.gov/endorsed-projects> (last visited Jul. 19<sup>th</sup>, 2013).

<sup>66</sup> G.C.A. § 12-6A-7 (2013).

<sup>67</sup> G.C.R. & Reg. § 391-1-4-.02(i) (2013).

<sup>68</sup> G.C.R. & Reg. § 391-1-4-.10(b)(6) (2013).

<sup>69</sup> G.C.R. & Reg. § 391-1-4-.10 (2013).

<sup>70</sup> *Id.* at (a)(1).

<sup>71</sup> *Id.*

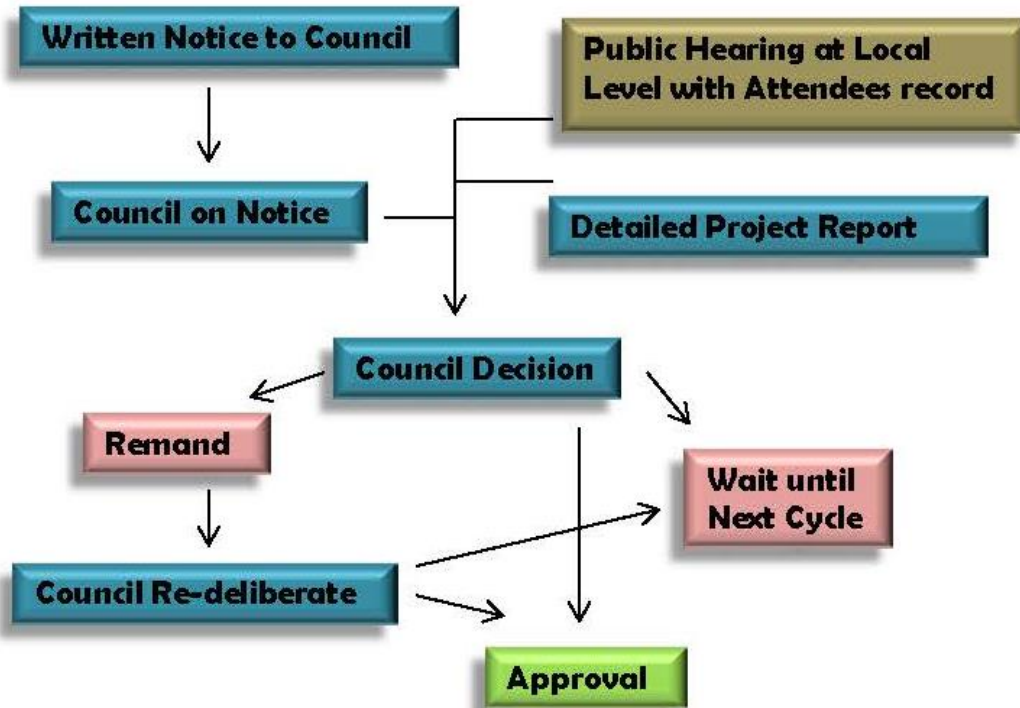
<sup>72</sup> G.C.R. & Reg. §§ 391-1-4-.10(a)-(c) (2013).

<sup>73</sup> G.C.R. & Reg. § 391-1-4-.10(d) (2013).



applicant fails to satisfy the Council after the refinement, it must wait for the next funding cycle to attempt another application.<sup>74</sup>

### Land Conservation Funding Petition Process



### Heritage Preserves Transfers

The Heritage Trust Act of 1975 allows GADNR to transfer heritage preserve lands to an interested local government.<sup>75</sup> This process includes removal of the heritage preserve dedication and conveying the property subject to the grant of a perpetual conservation easement.<sup>76</sup> As landowner, the transferee local government can manage the preserve as it sees fit, so long as the land retains a conservation easement “that is consistent with the best and most important uses established in the written recommendation” that dedicated the land as a preserve, “the conservation values identified by the department” and other restrictions.<sup>77</sup>

If a local government wishes to take over ownership and management of a heritage preserve lands, it must first consult with the state agency managing that preserve.<sup>78</sup> If the managing state agency is willing, the two entities must then draft the conservation easement that will be recorded during the title

<sup>74</sup> *Id.*

<sup>75</sup> G.C.A. §§ 12-3-76(b)-(e) (2013).

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at (b)(1).

<sup>78</sup> G.C.R. & Reg. § 391-1-8-.07(1)(a) (2013).

transfer.<sup>79</sup> Once a draft of the conservation easement is agreed upon, GADNR must then submit the draft and a written request to the Board of Natural Resources for the change of ownership.<sup>80</sup> The Board must then hold a public hearing to consider whether the title transfer is consistent with the preserve’s conservation goals before making a decision.<sup>81</sup> Local governments will bear any transaction or administrative costs incurred during the process.<sup>82</sup>

**Local Planning Authority**

The state’s coastal management plan explicitly defers the power to plan for and regulate the state’s coastal development to the local authorities.<sup>83</sup> The powers of Georgia’s county and municipal governments are strictly construed.<sup>84</sup> However, Georgia’s planning law gives local governments discretion to develop comprehensive development plans and power to enforce those plans.<sup>85</sup> The Shore Protection Act authorizes local governments to impose development regulations that are more stringent than the ones imposed by the state.<sup>86</sup> In their joint comprehensive plan, Camden County, the City of Kingsland, the City of St. Marys, and the City of Woodbine designated the county’s entire coastline as well as a substantial portion of the county’s estuary as conservation areas.<sup>87</sup> These areas are open to recreational activities only, and priorities are placed on the protection of the coastal hammocks and marshlands.<sup>88</sup>

*Evaluation of Local Authorities*

FACTORS	Georgia Land Conservation Program	Heritage Preserve Transfers	Local Planning Authority
Legal Regime	Incentive-based ★★	Regulatory ★★★★★	Planning ★★★★★
Ocean Jurisdiction	Record suggests that authority extends to tidal lands, though statute ambiguous ★	Statute allows designation of both land and water but local authority limited to existing boundaries <sup>89</sup> ★	Extends to tidal and estuarine lands ★
Durability	Indeterminate ★★	Indeterminate ★★	Indeterminate ★★
Consistency	Year-round ★★★★★	Authorizes year-round protection ★★★★★	Year-round ★★★★★

<sup>79</sup> G.C.R. & Reg. § 391-1-8-.07(1)(b) (2013).

<sup>80</sup> G.C.R. & Reg. § 391-1-8-.07(2) (2013); G.C.A. §§ 12-3-76(b)(1) (2013).

<sup>81</sup> G.C.R. & Reg. § 391-1-8-.07(3) (2013).

<sup>82</sup> G.C.R. & Reg. § 391-1-8-.07(7) (2013).

<sup>83</sup> Georgia Department of Natural Resources- Coastal Resources Division, 1997 Georgia Coastal Management Program Final Environmental Impact Statement, 12 (1997) available at: <http://coastalgadnr.org/cm/about/pdoc> (last visited Jul. 19<sup>th</sup>, 2013).

<sup>84</sup> City of Atlanta v. McKinney, 265 Ga. 161, 165 (1995).

<sup>85</sup> G.C.A. § 36-70-3 (2013)

<sup>86</sup> G.C.A. § 12-5-243 (2013).

<sup>87</sup> Coastal Georgia Regional Development Center, Joint Comprehensive Plan 2007-2027, Camden County p.11 (2008).

<sup>88</sup> Coastal Georgia Regional Development Center, Joint Comprehensive Plan 2007-2027, Camden County p.5, City of Kingsland p.5, City of St. Marys p.5, City of Woodbine p.5 (2008).

<sup>89</sup> Statute silent on whether local governments can exercise control over marine water beyond low-tide

FACTORS	Georgia Land Conservation Program	Heritage Preserve Transfers	Local Planning Authority
Habitat	Protects habitat for conservation values <span style="float: right;">★★★★</span>	Protects habitats for conservation values <span style="float: right;">★★★★</span>	Protects habitats for conservation values <span style="float: right;">★★★★</span>
Sector	Multiple-sector <span style="float: right;">★★★★★</span>	Multiple-sector <span style="float: right;">★★★★★</span>	Multiple-sector <span style="float: right;">★★★★★</span>
Enforcement	Penalty from local ordinances	Penalty from local ordinances	Penalty from local ordinances
Extent	Multiple sites exist within the state; expansion possible <span style="float: right;">★★★★★</span>	Multiple sites within state inventory; expansion possible <span style="float: right;">★★★★★</span>	Multiple sites with possible expansions <span style="float: right;">★★★★★</span>
Process	Public can petition under the statute <span style="float: right;">★★★★★</span>	Specific public participation process <span style="float: right;">★★★★</span>	No specific public participation process <span style="float: right;">★★</span>

State law prohibits local government from regulating hunting, trapping and fishing, except that it can protect its lands and regulate discharge of firearms.<sup>90</sup> However, local government has power to manage local government-owned lands. The statutes also give the public opportunities to participate when a local government engages in protection of its coastal resources.

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<sup>90</sup> O.C.G.A. § 27-1-3 (2013).