

CHAPTER 10 – ENVIRONMENTAL AND CULTURAL RESOURCE PROTECTION

Sec. 10.01. - Wetland Resources.

10.01.01. *Purpose and intent.* The purpose of this section is to ensure the protection of high-quality wetland systems in a manner consistent with the resource protection guidelines adopted in the City's Comprehensive Plan and existing state regulatory standards. In addition, it is the City's intent to maintain the sustainability of high-quality wetland ~~corridor~~systems.

10.01.02. *Exempt activities.* The following activities or uses within wetlands or required upland buffers adjacent to wetlands are exempt from the provisions of this section:

- A. Construction of single-family residential units within existing, recorded subdivisions where adjoining street and drainage improvements have been constructed.
- B. Construction of hiking trails, walking paths, observation decks, and other similar facilities related to passive recreational activities.
- C. Manual clearing with hand tools of vegetation from an area of less than ten percent of a wetland or required upland buffers adjacent to a wetland located on a single parcel. Utilizing this exemption does not relieve the applicant from meeting all applicable regulations listed in Chapter 11.
- D. Bona fide agricultural uses that follow best management practices established by the Florida Department of Agriculture and Consumer Services.
- E. Bona fide fire line control activities that follow best management practices established by the Florida Department of Agriculture and Consumer Services.
- F. Silviculture activities, which follow the best management practices, outlined in the publication entitled, "Silviculture Best Management Practices Manual", Florida Department of Agriculture and Consumer Services, Division of Forestry.
- G. Bona fide, approved, mosquito control activities conducted by a government-approved agency provided it is in strict conformity with the requirements as set forth in F.S. chs. [482](#) and [487](#), and Rules 5E-2 and 5E-9, Florida Administrative Code.
- H. Utility facilities including crossings, easements, or rights-of-way that are related to generation, distribution, collection, transmission, or conveyance of the utility service to its customers.
- I. Custodial maintenance activities of stormwater management systems.
- J. Authorized activities with approved Florida Department of Environmental Protection, St. Johns River Water Management District, or US Army Corps of Engineers permit(s) for wetland restoration, enhancement, monitoring, or mitigation activities.
- K. The installation of driveways to single-family residential units within existing recorded subdivisions where wetland crossings provide the only physical or legal access point, and provided that the wetland crossing maintains the existing wetland hydrologic connections and that best management practices are in place during construction activities to minimize wetland impacts.
- L. Activities qualifying for and obtaining a Notice of General Permit through the joint environmental resource permitting application are considered de minimis alterations and not subject to the permitting or buffering requirements of this LDC.
- M. Wetland impacts associated with access to a permissible use or a linear project if an alternative analysis for avoidance and minimization has been approved. This exemption also applies to Florida Department of Transportation public transportation projects.
- N. Activities that qualify for and obtain a State Programmatic General Permit (federal authorization delegated to the state) are considered de minimis alterations and not subject to the permitting or buffering requirements of this LDC.

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O. Activities determined to be de minimis under the Florida Statutes.

10.01.03. Wetland identification.

A. *Methodology.* Wetlands shall be identified pursuant to the methodology contained in the Florida Administrative Code or the Pre-Henderson Wetland Delineation Methodology (F.S. § [373.421](#) (7)). Wetlands may consist of, but are not limited to, forested swamps, sloughs, freshwater and tidal marshes, and wet prairies.

B. *Exempt from regulation.* This section shall not be construed to regulate roadside ditches, conveyance swales, utility related drainage features, or stormwater management systems.

C. *Qualifications for wetland delineation.* All state jurisdictional wetlands shall be field delineated by a ~~Florida Q~~qualified ~~E~~environmental ~~P~~professional and surveyed by a Florida registered land surveyor for illustration on all plans submitted to the City for subdivision, site plan review, or rezoning applications.

10.01.04. *Measures to avoid or minimize wetland impacts.* The applicant must consider practicable design modifications that will reduce or eliminate adverse impacts to wetlands and other surface waters. The term "modification" shall not be construed as including the alternative of failing to implement the stormwater management system in some form, nor shall it be construed as requiring a project that is significantly different in type or function. A proposed modification that is not technically capable of being constructed, or is not economically viable, or which adversely affects public safety through endangerment of lives or property is not considered "practicable." To receive City approval, a stormwater management system cannot cause a net adverse impact on wetland functions and other surface water functions, unless it is offset by mitigation in accordance with the requirements established by state law.

10.01.05. Wetland impact report required.

A. Except as otherwise provided herein, the applicant shall demonstrate consistency with the category requirements in Table 10-1 as follows:

Table 10-1: Wetland Impact Analysis Report Requirements

Requirement in Application Package	Optimal	Moderate	Minimal
	Wetland	Wetland (1)	Wetland (1)
Wetland Impact Analysis	YES	YES	YES
Alternatives analysis for avoidance and minimization	YES	YES	NO
Assurance of 'no net loss of wetland functions' for the wetland system(s) located on the project site	YES	NO	NO
Compensatory mitigation within the City's geographic boundary is preferred. However, mitigation shall occur within the same hydrologic basin per St. Johns River Water Management District, or as consistent with the Florida Administrative Code ⁽²⁾	YES	YES	YES
A copy of all requisite federal and/or state wetland permits	YES	YES	YES

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(1) Wetland Impacts regulated by St. Johns River Water Management District, ~~or~~ the Florida Department of Environmental Protection, or Army Corp of Engineers

(2) In accordance with F.S. § 373.4135, as amended, the City shall not deny the use of a mitigation bank or off-site regional mitigation due to its location outside of City jurisdiction.

B. Category wetlands are described as follows:

1. *Optimal wetlands*—Named wetland systems associated with surface water bodies and/or a wetland quality assessment methodology score between 0.71 and 1.0.
2. *Moderate wetlands*—Wetland quality assessment methodology score between 0.41 and 0.70
3. *Minimal wetlands*—Wetland quality assessment methodology score between 0.0 and 0.40

10.01.06. *Submittal requirements for wetland impact analysis report.* The City shall require a wetland impact analysis report for projects that are proposed to impact state jurisdictional wetlands. The wetland impact analysis report shall be submitted during the subdivision and site plan process for evaluation. The wetland impact analysis report shall be completed by a Florida qualified environmental professional and shall include, but not be limited to:

- A. A description of all waterbodies, watercourses, and wetlands on-site and a general description of wetlands immediately adjacent to the site to allow an assessment of wetland impacts.
- B. A map of the entire contiguous natural systems including the on-site wetland systems, based on the Florida Land Use Cover Classification System.
- C. The existing environmental, soil, and hydrologic conditions of the site.
- D. The proposed wetland impact site to be evaluated pursuant to the City's wetland quality assessment methodology. If the results of the wetland quality assessment methodology are deemed unsatisfactory by City staff, the City may require, at the applicant's expense, an additional wetland quality assessment methodology from another qualified environmental professional.
- E. A map or site plan depicting on-site wetlands, wetlands proposed for impacts, roads, easements, stormwater facilities, buffers, building location, and other on-site facilities or structures.
- F. An alternative site plan analysis consistent with City standards for avoidance and minimization of wetland impacts, where applicable, which illustrates that wetland impacts have been avoided and/or minimized to the greatest extent practicable through project design modifications.
- G. A demonstration that the level of function provided to fish and wildlife and listed species by the subject wetland(s), including water quality of the receiving waters, will not be adversely affected.

H. Report must be completed within 3 years of submittal or must have a valid formal wetland determination through appropriate agencies. An updated delineation report can be requested if the site has been altered since the delineation in such ways such as but not limited to clearing and altered water flow.

10.01.07. *Permitted activities and requirements.* Once the requirements of this section have been met, wetland impacts for moderate and minimal quality wetlands and associated mitigation activities shall be governed by the St. Johns River Water Management District, the Army Corp of Engineers, or the Florida Department of Environmental Protection, as applicable. A St. Johns River Water Management District, the Army Corp of Engineers, and/or Florida Department of Environmental Protection permit shall be prima facie evidence of compliance with this section. No net loss of wetland function shall be permitted for each optimal wetland system located in the City.

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10.01.08. *Buffers.*

A. *Natural upland buffers.* A natural upland buffer, with an average width of 50 feet, but no less than 25 feet, shall be provided adjacent to and surrounding optimal wetlands; and a buffer with an average width of 25 feet, but no less than 15 feet, shall be provided adjacent to moderate and minimal wetlands.

1. Upland buffers adjacent to wetlands shall consist of natural upland habitats that can provide for the various life functions of wetland dependent wildlife.
2. Upland buffers adjacent to wetlands shall not be altered except as exempted by Subsection 10.01.02. Wetland buffers shall be protected from erosion and sedimentation during construction activities by installing silt fence or turbidity barrier 1 foot landward from upland buffer or permitted wetlands impacts. A double row of silt fence, spaced at least 3 feet apart, shall be installed on any upland buffer or wetland that falls under categories below:

a. Is protected by conservation FLUM or Preservation Zoning.

-b. Is within a conservation easement

c. Is a high-quality wetland as determined by 10.01.05.B

B. *Activities permitted within a buffer.* Activities or construction, which does not have an adverse effect on the natural function of the wetland buffer, may be permitted within the buffer. The activities or construction include, but are not limited to, pruning, planting of suitable native vegetation, removal of exotic and nuisance plant species, construction of minor drainage structures such as swales, outfall pipes and outfall structures, or berms, construction of elevated boardwalks, docks, piers, passive recreation such as, or at grade pervious hiking trails.

10.01.09. Unpermitted Impacts to wetlands or upland buffers during construction. In the absence of an appropriate wetland permit(s), development related activities shall not cause the diminishing of quality or destruction of Wetlands in contravention of applicable federal and state laws, rules, or regulations. Should wetlands exist on the subject property, all development activities that might negatively affect that wetlands shall cease. The applicant shall notify the City, FDEP, SJRWMD, and ACOE, to the extent required by law, if wetlands are determined to be on site. Property shall be developed in full compliance with all applicable laws, rules, and regulations. Upland Buffers and wetlands shall be maintained in their natural vegetated condition. Native vegetation removed or destroyed within the Upland Buffer or wetlands in violation of this Code shall be restored. These areas shall be replanted with comparable native vegetative species as were removed or destroyed.

Sec. 10.02 - Floodplain Management.

10.02.01 *Administration.*

A. *General.* These regulations shall be known as the Floodplain Management Ordinance of the City of Palm Coast, hereinafter referred to as "this article."

B. *Scope.* The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

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10.02.02 *Reserved.*

10.02.03 *Intent.*

- A. *[Purposes.]* The purposes of this article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
1. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 2. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 3. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
 4. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
 5. Minimize damage to public and private facilities and utilities;
 6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
 7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
 8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.
- B. *Coordination with the Florida Building Code.* This article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
- C. *Warning.* The degree of flood protection required by this article and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guarantee of vested use, existing use, or future use is implied or expressed by compliance with this article.
- D. *Disclaimer of liability.* This article shall not create liability on the part of City Council of the City of Palm Coast or by any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made thereunder.

10.02.04 *Applicability.*

- A. *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- B. *Areas to which this article applies.* This article shall apply to all flood hazard areas within the City of Palm Coast as established in Section 10.02.04.C of this article.

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- C. *Basis for establishing flood hazard areas.* The Flood Insurance Study for Flagler County, Florida and Incorporated Areas dated June 6, 2018 and any subsequent revisions, and the accompanying Flood Insurance Rate Maps (FIRM), are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City of Palm Coast Community Development Department, 160 Lake Avenue, Palm Coast, Florida 32164.
 - D. *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to Section 10.02.07 of this article the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the Floodplain Administrator indicates that ground elevations:
 - 1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as a flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.
 - 2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.
 - E. *Other laws.* The provisions of this article shall not be deemed to nullify any provisions of local, state or federal law.
 - F. *Abrogation and greater restrictions.* This article supersedes any article in effect for management and development in flood hazard areas. However, it is not intended to repeal or abrogate any other provisions of existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between these regulations and any other regulation, the more restrictive shall govern. This article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this article.
 - G. *Interpretation.* In the interpretation and application of this article, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- 10.02.05 *Duties and powers of the Floodplain Administrator.*
- A. *Designation.* The Land Use Administrator is designated the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.
 - B. *General.* The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies, and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to Section 10.02.09 of this article.
 - C. *Applications and permits.* The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:
 - 1. Review applications and plans to determine whether proposed development will be located in flood hazard areas;

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2. Review applications for modifications of any existing development in flood hazard areas for compliance with the requirements of this article;
 3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
 4. Provide available flood elevation and flood hazard information;
 5. Determine whether additional flood hazard data shall be obtained from other sources which shall be developed by an applicant;
 6. Review applications to determine whether proposed development will be reasonably safe from flooding;
 7. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and
 8. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.
- D. Substantial improvements and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before the repairs are made;
 2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 3. Determine and document whether the proposed work constitutes substantial improvements or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage";
 4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this article is required.
- E. *Modifications of the strict application of the requirements of the Florida Building Code.* The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 10.02.09 of this article.
- F. *Notices and orders.* The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.

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- G. *Inspections.* The Floodplain Administrator shall make the required inspections as specified in Section 10.02.08 of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- H. *Other duties of the Floodplain Administrator.* The Floodplain Administrator shall have other duties, including but not limited to:
1. In coordination with the Building Official, review all permits for construction within the Special Flood Hazard Areas to ensure that the proposed project meets the flood resistant construction requirements of the Florida Building Code, including elevation requirements;
 2. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 10.02.05.D of this article;
 3. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
 4. Require applicants, who submit hydrologic and hydraulic engineering analyses to support permit applications, to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;
 5. Review required design certifications and documentation of elevations specified by this article and the Florida Building Code to determine that such certifications and documentations are complete. Elevation certificates shall be provided at three stages, 1) construction drawings, 2) building under construction, and 3) finished construction;
 6. Notify the Federal Emergency Management Agency (FEMA) when the corporate boundaries of the City of Palm Coast are modified; and
 7. Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."
- I. *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at City of Palm Coast.

10.02.06 *Permits.*

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- A. *Permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this article, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.
- B. *Floodplain development permits or approvals.* Floodplain development permits or approvals shall be issued pursuant to this article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
- C. *Buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this article:
1. Railroads and ancillary facilities associated with the railroad.
 2. Nonresidential farm buildings on farms, as provided in F.S. § [604.50](#).
 3. Temporary buildings or sheds used exclusively for construction purposes.
 4. Mobile or modular structures used as temporary offices.
 5. Those structures or facilities of electric utilities, as defined in F.S. § [366.02](#), which are directly involved in the generation, transmission, or distribution of electricity.
 6. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
 7. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site, and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
 8. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
 9. Structures identified in F.S. § [553.73](#) (10)(k), are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.
- D. *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the City of Palm Coast. The information provided shall:
1. Identify and describe the development to be covered by the permit or approval.
 2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
 3. Indicate the use and occupancy for which the proposed development is intended.
 4. Be accompanied by a site plan or construction documents as specified in Section 10.04.07.

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5. State the valuation of the proposed work.
 6. Be signed by the applicant or the applicant's authorized agent.
 7. Give such other data and information as required by the Floodplain Administrator.
- E. *Validity of permit or approval.* The issuance of a floodplain development permit or approval pursuant to this article shall not be construed to be a permit for, or approval of, any violation of this article, the Florida Building Codes, or any other ordinance of this community. The issuance shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.
- F. *Expiration.* A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
- G. *Suspension or revocation.* The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other ordinance, regulation or requirement of the City.
- H. *Other permits.* Floodplain development permits and building permits shall include a condition or disclaimer that all other applicable state or federal permits be obtained by the applicant before commencement of the permitted development. Such permits may include but not limited to the following:
1. The St. Johns Water Management District; F.S. § [373.036](#).
 2. Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § [381.0065](#), and Chapter 64E-6, F.A.C.
 3. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; F.S. § [161.055](#).
 4. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
 5. Federal permits and approvals.
- 10.02.07 *Site plans and construction documents.*
- A. *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:
1. Delineation of flood hazard areas, floodway boundaries, 25-foot floodway setback, flood zone(s), base flood elevation(s), and ground elevations. ~~if necessary for review of the proposed development.~~
 2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 10.02.07.B.2 or Section 10.02.07.B.3 of this article.
 3. Where the parcel on which the proposed development will take place does not have base flood elevations included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 10.02.07.B. of this article.

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4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
 5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
 7. Existing and proposed alignment of any proposed alteration of a watercourse.
- B. *Information in flood hazard areas without base flood elevations (approximate Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:
1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
 2. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source, or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
 3. Where base flood elevation data and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate, the base flood elevation shall be determined using a site-specific floodplain study by a professional engineer using detailed methods.
 4. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.
- C. *Additional analyses and certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:
1. For development activities proposed to be located in a regulatory floodway or within the 25-foot floodway setback, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analyses to FEMA as specified in Section 10.02.07.D of this article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
 2. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone "O" or Zone "AH".
 3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the

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altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 10.02.07.D of this article.

- D. Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant shall seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

10.02.08 Inspections.

- A. *General.* Development for which a floodplain development permit or approval is required shall be subject to inspection.
- B. *Development other than buildings and structures.* The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.
- C. *Buildings, structures and facilities exempt from the Florida Building Code.* The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.
- D. *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator: the certification of the lowest floor prepared and sealed by a state-licensed surveyor.
- E. *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 10.02.08.D of this article.
- F. *Manufactured homes.* The Building Official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Building Official.

10.02.09 Variances and appeals.

- A. *General.* The Land Use Administrator and the City of Palm Coast Planning and Land Development Regulation Board shall hear and decide on requests for appeals and the Planning and Land Development Regulation Board shall hear requests for variances from the strict application of this article. Pursuant to F.S. § [553.73](#) (5), the Planning and Land Development Regulation Board shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.
- B. *Appeals.* Same process as set out in Section 2.16, of the Land Development Code.
- C. *Limitations on authority to grant variances.* The Planning and Land Development Regulation Board shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 10.02.09.H of this article, the conditions of issuance set forth in Section 10.02.09.I of this article, and the comments and recommendations of the Land

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Use Administrator, Floodplain Administrator and the Building Official. The Planning and Land Development Regulation Board has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.

- D. *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 10.02.07.C of this article.
- E. *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.
- F. *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance meets the requirements of Section 10.02.09.D, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.
- G. *Alteration of sand dunes or mangrove stands in coastal high hazard areas.* A variance shall not be issued for any proposed alteration of sand dunes or mangrove stands in coastal high hazard areas (Zone V) unless the applicant submits, and the City approves, an engineering analysis that demonstrates the proposed alteration will not increase the potential for flood damage or the potential for erosion. Any such variance shall not be issued unless the proposed alteration is approved by the Florida Department of Environmental Protection. This limitation shall not apply to mangrove stands within City canals.
- H. *Considerations for issuance of variances.* In reviewing requests for variances, the Planning and Land Development Regulation Board shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, Land Development Code and this article, and the following:
 - 1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
 - 2. The danger to life and property due to flooding or erosion damage;
 - 3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
 - 4. The importance of the services provided by the proposed development with existing and anticipated development;
 - 5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
 - 6. The compatibility of the proposed development with existing and anticipated development;
 - 7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
 - 8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
 - 9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

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10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets, and bridges.
 - I. *Conditions for issuance of variances.* Variances shall be issued only upon:
 1. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards.
 2. Determination by the Planning and Land Development Regulation that:
 - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - b. Literal interpretation of the provision of this Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Land Development Code and would result in unnecessary and undue hardship on the applicant;
 - c. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances;
 - d. The variance is the minimum necessary, considering the flood hazard, to afford relief;
 - e. The special conditions and circumstances are not self-imposed and do not result from the actions of the applicant; and
 - f. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of Court in such a manner that it appears in the chain of title of the affected parcel of land;
 - g. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property;
 - h. The proposed development must not be in conflict with or contrary to the public interest;
 - i. The proposed development must be consistent with the Comprehensive Plan and the provisions of this Land Development Code;
 - j. The proposed development must not impose a significant financial liability or hardship for the City;
 - k. The proposed development must not create an unreasonable hazard, or nuisance, or constitute a threat to the general health, welfare, or safety of the City's inhabitants; and
 - l. The proposed development must comply with all other applicable local, state, and federal laws, statutes, ordinances, regulators, or codes.
- 10.02.10 *Violations.*
 - A. *Violations.* Any development that is not within the scope of the Florida Building Code but that is regulated by this article that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this article, shall be deemed a violation of this article. A

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building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this article or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

- B. *Authority.* For development that is not within the scope of the Florida Building Code but that is regulated by this article and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.
- C. *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation of a stop work order, except such work as that a person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

10.02.11 *Flood Resistant Development Design and construction of buildings, structures and facilities exempt from the Florida Building Code.*

- A. Pursuant to Section 10.02.06.C of this article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 10.02.17 of this article.

10.02.12 *Subdivisions.*

- A. *Minimum requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:
 - 1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - 2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 - 3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- 4. Compensatory storage system is designed to provide 2 ft freeboard above established flood elevation.
 - 5. All new platted lots shall not be located within any special flood hazard area.
- B. *Subdivision plats.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:
 - 1. Delineation of flood hazard areas, floodway boundaries, 25-foot floodway setback, flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
 - 2. All subdivisions where the base flood elevation is not included on the FIRM, the base elevations are determined in accordance with Section 10.02.07.B. of this article; and
 - 3. Compliance with the site improvement and utilities requirements of Section 10.02.13 of this article.
 - 4. Any reduction in the water-holding capacity of the flood hazard area caused by development, structures, and site improvements shall be compensated such that no increase in water surface elevations, peak discharges, or velocities occurs either upstream, downstream, or in the vicinity of the site during occurrence of flood events up to and including the base flood. The compensatory storage shall be located within the same defined floodplain's hydrologic sub basin as the placement of the fill. Site improvements are permitted if flood storage

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provided is equal to or greater than the volume of flood storage displaced by the development. Technical data providing evidence of the equivalency of the compensatory storage shall be submitted to the City.

5. Applicant shall ensure that technical data reflecting base flood elevation changes or flood hazard area boundary changes are submitted to Federal Emergency Management Agency, with the City's endorsement, for a conditional Flood Insurance Rate Map revision. Prior to approval of final plat, an issued Letter of Map Change determination from FEMA is required.

10.02.13 *Site improvements, utilities and limitations.*

A. *Minimum requirements.* All proposed new development shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

B. *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into floodwaters, and impairment of the facilities and systems.

C. *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

D. *Compensatory storage.* Any reduction in the water-holding capacity of the flood hazard area caused by development, structures, and site improvements shall be compensated such that no increase in water surface elevations, peak discharges, or velocities occurs either upstream, downstream, or in the vicinity of the site during occurrence of flood events up to and including the base flood. The compensatory storage shall be located within the same defined floodplain's hydrologic sub basin as the placement of the fill. Site improvements are permitted if flood storage provided is equal to or greater than the volume of flood storage displaced by the development. Technical data providing evidence of the equivalency of the compensatory storage shall be submitted to the City.

E. *Limitations on sites in regulatory floodways and 25-foot floodway setback.* No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway or 25-foot floodway setback unless the floodway encroachment analysis required in Section 10.02.07.C.1 of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

F. *Limitations on placement of fill.* Subject to the limitations of this article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

G. *Limitations on sites in coastal high hazard areas (Zone V and AE).* In coastal high hazard areas, alteration of sand dunes and mangrove stands shall not be permitted. Construction or restoration

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of dunes under or around elevated buildings and structures shall comply with Section 10.02.17.I.3 of this article.

10.02.14 *Manufactured homes.*

- A. *General.* Manufactured homes shall not be installed in floodways and 25-foot floodway setback except in an existing manufactured home park or subdivision. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § [320.8249](#), and shall comply with the requirements of Chapter 15C-1, F. A. C. and the requirements of this article.
- B. *Foundations.* All manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:
 - 1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and this article.
 - 2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this article.
- C. *Anchoring.* All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over the top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.
- D. *Elevation.* All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V and Coastal A Zone).
- E. *Enclosures.* Enclosed areas below elevated manufactured shall comply with the requirements of the Florida Building Code Residential Section R322.2 or Section R322.3 for such enclosed areas, as applicable to the flood hazard area.
- F. *Utility equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.

10.02.15 *Recreational vehicles and trailer parks.*

- A. *Temporary placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:
 - 1. Be prohibited to park or store a recreational vehicle for more than a total of three days, or any part thereof in any consecutive seven-day period on a residential driveway; or
 - 2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.
- B. *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in Section 10.02.15.A of this article for temporary placement shall meet the requirements of Section 10.02.14 of this article for manufactured homes.

10.02.16 *Tanks.*

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- A. *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
- B. *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of Section 10.02.16.C of this article shall:
1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy, assuming the tank is empty, and the effects of flood-borne debris.
 2. Not be permitted in coastal high hazard areas (Zone V).
- C. *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
- D. *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

10.07.17 At-grade accessory structures.

At-grade accessory structures are permitted provided the accessory structures are used only for parking or storage and:

1. If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one-story and not larger than 600 sq. ft. and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.

2. If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings and are not larger than 100 sq. ft.

3. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

4. Have flood damage-resistant materials used below the base flood elevation plus two (2) foot.

5. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus two (2) feet.

10.02.18~~7~~ Other development.

- A. *General requirements for other development.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, shall:

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1. Be located and constructed to minimize flood damage;
2. Meet the limitations of Section 10.02.13.E of this article if located in a regulated floodway;
3. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
4. Be constructed of flood damage-resistant materials; and
5. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

6. System is designed to provide 2 ft freeboard above established flood elevation.

- B. *Fences in regulated floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 10.02.13.E of this article.
- C. *Retaining walls, sidewalks and driveways in regulated floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 10.02.13.E of this article.
- D. *Roads and watercourse crossings in regulated floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet the limitations of Section 10.02.13.E of this article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 10.02.07.C.3 of this article.
- E. *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).* In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:
1. Structurally independent of the foundation system of the building or structure;
 2. Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
 3. Have a maximum slab thickness of not more than four inches.
- F. *Decks and patios in coastal high hazard areas (Zone V).* In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:
1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
 2. A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
 3. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved

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unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

4. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.
- G. *Other development in coastal high hazard areas (Zone V).* In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
 1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 2. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
 3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.
- H. *Nonstructural fill in coastal high hazard areas (Zone V).* In coastal high hazard areas:
 1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
 2. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
 3. Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

10.02.198 *Critical facilities.*

- A. New critical facilities shall be directed and sited away from special flood hazard areas. A critical facility shall have at least one access road connected to land outside the special flood hazard area that is capable of supporting a 4,000-pound vehicle. The top of the road shall be no lower than six inches below base flood elevation.
- B. New critical facilities proposed for construction within a Special Flood Hazard Area without a determined base flood elevation shall be permitted with an issued Letter of Map Change demonstrating that the entire project area is outside the Special Flood Hazard Area.

([Ord. No. 2018-13](#), § 2, 4-17-18; [Ord. No. 2021-22](#), § 2, 10-5-21)

Editor's note—[Ord. No. 2018-13](#), § 2, adopted April 17, 2018, changed the title of § 10.02 from "Flood Damage Protection" to read as herein set out.

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Sec. 10.03. - Wellfield Protection.

10.03.01. *Purpose and intent.* There is a need to protect existing and future public water supply wells within the City from the irreversible and adverse effects of groundwater contamination. It is the intent and purpose of this section to safeguard the health, safety, and welfare of the citizens of the City by protecting groundwater resources. Therefore, it is the City's intent to provide minimum standards to regulate land use activities, storage, handling, use, or production of regulated substances within zones of protection surrounding public water supply wells. Nothing herein supersedes more stringent setback or permitting requirements contained in other applicable federal and state wellhead protection regulations.

10.03.02. *Wellhead protection zones and interpretation.* The regulations set forth in this section shall apply to all lands surrounding an existing public water supply well designated as the primary and secondary protection zone(s) as defined in this section. This regulation shall apply to all proposed public water supply wells if the specific location has been identified and the public or private entity owns the well site.

A. *Wellhead location map.*

1. The Land Use Administrator shall maintain wellhead protection zone maps that designate and geographically depict the primary and secondary wellhead protection zones.
2. The Land Use Administrator shall review the wellhead protection zone maps and amend them as necessary. The basis for amending such maps may include, but is not limited to, the following:
 - a. Changes in technical knowledge regarding the intermediate and Floridan aquifer system;
 - b. Changes in well pumping rates; and
 - c. Reconfiguration of or the addition of a well within the City's boundary.

B. *Protection zones.*

1. *Primary wellhead protection zone.* Shall be circular with a fixed 500-foot radial setback distance around the wellhead and shall include the surface and subsurface area surrounding the wellhead.
2. *Secondary wellhead protection zone.* Shall be an area delineated around the favorable potable water production areas for the Floridan and intermediate aquifer as depicted on the "Wellhead Protection Zone Map" on file at the office of the City Clerk.

C. *Interpretation of zone designation.* To determine applicable protection measures for properties and buildings within the primary or secondary wellhead protection zone, the following rules shall apply:

1. Properties located wholly or partially within a wellhead protection zone shall be governed by the restrictions applicable to that zone.
2. Where the boundary of a wellhead protection zone passes through a building, the entire building shall be considered to be in the most restrictive zone.

10.03.03. *Exemptions and provisional exemptions.*

A. *Exemptions.* Except as provided herein, the following activities or uses are exempt from the provisions of this section:

1. Fire, police, emergency medical services, emergency, and management facilities.
2. Essential utility services and facilities provided that wellhead setback requirements are in accordance with applicable federal and state law.

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3. The transportation of any hazardous substance if the transporting vehicle is in continuous transit and meets all applicable federal, state, and City requirements.
 4. Retail/wholesale establishments that store or handle an unlimited amount of regulated substances for resale provided:
 - a. The regulated substances are handled, stored, and sold indoors.
 - b. The regulated substances are stored and sold in their original unopened containers.
 5. Residential activities including the use of commonly used regulated substances for cleaning, maintenance, pool service, pest control, or any other lawful residential use activity except for underground storage of regulated substances.
 6. Commercial products used at a facility solely for janitorial or minor maintenance purposes.
 7. Outdoor recreational activities and facilities including nature and bike paths, conservation areas, and passive and recreational parks that do not involve the storage of regulated substances.
- B. *Provisional exemptions.* The following activities are exempt, if in compliance with requirements as stated:
1. The use of any hazardous substance or lubricants in lawn maintenance equipment, if extreme care is taken to prevent spillage or discharging fuels and lubricants onto soils, groundwater, or surface water.
 2. Agricultural uses, except that said uses shall comply with the latest version of the Florida Department of Agricultural and Consumer Services and Florida Department of Environmental Protection Best Management Practices for Agrichemical Handling and Farm Equipment Maintenance. In addition, silviculture operations shall conform to the Florida Department of Agricultural and Consumer Services Silviculture Best Management Practices, 1993, as amended from time to time. Alternative best management practices may be substituted with prior written approval by the City.
 3. Construction activities, if all contractors, subcontractors, laborers, and their employees, when using, handling, storing, or producing regulated substances, adhere to the City's applicable best management practices.
 4. The application of pesticides, herbicides, fungicides, and rodenticides in recreation, agriculture, pest control and aquatic weed control activities if:
 - a. The application is in strict conformity with the use requirement as is indicated on the containers in which the substances are sold;
 - b. The application is in strict conformity with the requirements as set forth in the Florida Statutes and the Florida Administrative Code; and
 - c. The City is notified at least 48 hours prior to the application within the primary wellhead protection zone.
 5. New golf courses, if compliance is demonstrated by submitting to the City a written best management practices plan subject to approval by the Land Use Administrator and, which at a minimum, conforms with the Florida Department of Environmental Protection May, 1995 Best Management Practices for Golf Course Maintenance Departments and the City's groundwater protection prevention measures for secondary wellhead protection zones. New and existing golf courses shall comply with Subsection 10.03.06 herein.

10.03.04. *Regulated substances and facilities.*

- A. *Regulated substances.* The following substances are regulated by this section:

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1. Any substance, including petroleum or derivatives thereof, or combination of substances which because of their quantity, concentration, physical, chemical, infectious, flammable, combustible, radioactive, or toxic characteristics, may cause or significantly contribute to a present or potential risk to human health, safety, or welfare, to the groundwater resources, or to the natural environment; or
2. Those substances set forth in the lists, as amended from time to time, entitled: Lists of Hazardous Waste, 40 Code of Federal Regulations Part 261, Subpart D, and waste characterized in 40 Code of Federal Regulations 261 Subpart C; Hazardous Constituents-Appendix VIII, (40 CFR Part 261); Environmental Protection Agency Designation Reportable Quantities, List of Hazardous Substances and Notification Requirements for Hazardous Substances under the Comprehensive Environmental Response, Compensation, and Liability Act (40 CFR 302); Superfund Amendments and Reauthorization Act of 1986, Section 302 Extremely Hazardous Substances List (40 CFR. 300, App. A and B); known hazardous and toxic properties as listed in 40 CFR 302; and substances that are restricted-use pesticides according to the Florida Statutes and the Florida Administrative Code.

B. *Regulated facilities.*

1. Any new nonresidential use, handling, production, or storage of regulated substances found in quantities greater than the following shall be considered a regulated facility:
 - a. When the aggregate sum or a single regulated substance present on a single parcel or building exceeds 110 gallons underground; and
 - b. Five hundred fifty gallons aboveground if the substance is a liquid or 1,100 pounds if a solid.
2. Any existing nonresidential use, handling, production, or storage of regulated substances is lawful and shall be considered a nonconforming activity:
 - a. When the aggregate sum or a single regulated substance present on a single parcel or building exceeds 110 gallons underground; and
 - b. Five hundred fifty gallons aboveground if the substance is a liquid or 1,100 pounds if a solid.
3. Facilities listed in Subsection 10.03.05 herein are regulated facilities.

10.03.05. *Restrictions within wellhead protection zones.* In addition to the requirements set forth in this section, applicable facilities shall comply with the Florida Department of Environmental Protection wellhead protection standards in accordance with the Florida Administrative Code and the City's Groundwater Protection Preventative Measures and comply with Best Management Practices to prevent adverse impacts to groundwater resources.

A. *Secondary wellhead protection zone.* The following regulated uses and activities proposed within the secondary wellhead protection zone are prohibited; however, if existing as a legal use on November 16, 2008, may be allowed provided they comply with the requirements of Subsection 10.03.07:

1. New Class I, II, and V underground injection control wells, as regulated in the Florida Administrative Code, except for aquifer storage and recovery system wells or other necessary potable water drinking facilities injection wells as permitted by the appropriate state agency.
2. New or expanded landfills, as defined by the Florida Administrative Code.
3. New discharges to groundwater of industrial wastewater as regulated under the Florida Administrative Code.
4. New septic tank systems.

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5. Prohibitions as specified under the City's Groundwater Protection Preventative Measures.

- B. *Primary wellhead protection zone.* Regulated uses and activities proposed within the primary wellhead protection zone shall comply with requirements in Subsections 10.03.06 and 10.03.07 to protect potable water wells and to prevent the need for their replacement or restoration due to contamination.

The following regulated uses are prohibited within the primary wellhead protection as a new use; however, if existing as a legal use on November 16, 2008, may be allowable provided they comply with the provisions of Subsection 10.03.07:

1. New underground storage of regulated substances.
2. Existing small quantity generators and conditionally exempt small quantity generator of hazardous waste, as regulated under the Florida Administrative Code, shall comply with the secondary containment requirements of 40 Code of Federal Regulations Part 264 Subpart I (1994), as amended, hereby incorporated by reference. New small quantity generator and conditionally exempt small quantity generator activities shall be prohibited within a 500-foot radial setback from any well.
3. New large quantity generators of hazardous waste as regulated under the Florida Administrative Code.
4. New hazardous waste, treatment, storage, disposal, and transfer facilities requiring permits under the Florida Administrative Code.
5. New soil treatment facilities as regulated under the Florida Administrative Code.
6. New above ground storage tanks regulated under the Florida Administrative Code. Replacement of an existing above ground storage tank of the same or less capacity is exempt from this provision if the replacement tank system is installed with secondary containment and maintained as required in the Florida Administrative Code.
7. New underground storage tanks regulated under the Florida Administrative Code. Replacement of an existing underground storage tank of the same or less capacity is exempt from this provision if the replacement tank system is installed and maintained as required in the Florida Administrative Code.
8. New mineral acid above ground storage tanks as regulated under the Florida Administrative Code.
9. New industrial wastewater treatment facilities.
10. Vehicular and washing facilities provided the facility establishes reclaimed and reuse practices for the water supply.
11. Motor vehicle repair facilities.
12. Outside storage of equipment, tools, or other possessions that may have the potential to discharge regulated substances or adequate best management practices are utilized to prevent such discharges.
13. New cemeteries.
14. No new retention and/or detention facilities including but not limited to stormwater treatment facilities.
- 15.4. Parking areas, unless:
 - a. Impervious with adequate stormwater design to a location outside of the zone.
 - b. Florida Department of Transportation Standard Type D and/or equivalent raised curb is used.

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- c. Other means of advanced water quality treatment are provided.

10.03.06. *Permits, applications, and administrative process.*

A. *Permit requirements.*

1. No permit or license for any land use activity will be issued that would allow development or land use activities in the wellhead protection zones that is contrary to the restrictions and provisions provided herein.
2. Proposed land use or activities that involve property located wholly or partially within a protection zone shall be reviewed by the Land Use Administrator. The Land Use Administrator shall issue a notice as to whether or not the proposed land use or activity meets the applicable requirements of this section. A preliminary evaluation shall be conducted for all applicants to determine if proposed land use activities are exempt or do not apply to this section.

B. *Application procedure.* Prior to the Land Use Administrator issuing an approval notice for property or land use activities located in a wellhead protection zone, an application shall be filed on a form and containing such information as the Land Use Administrator shall require by administrative rule.

C. *Permit conditions.* The City may place conditions on any development order or permit or license to ensure compliance with all of the prohibitions, restrictions and requirements set forth in this section. Such conditions may include, but are not limited to, facility inspections, groundwater monitoring, and compliance reporting.

D. *Alterations and expansion.* The Land Use Administrator shall be notified in writing prior to the expansion, alteration, or modification of any existing structure or land use activity. Any such expansion, alteration, or modification shall conform to this section.

10.03.07. *Facility inspections.* The Land Use Administrator is hereby authorized to make inspections during normal operational hours of all facilities or activities regulated by this section, including nonresidential buildings, structures, and land in the City in order to determine compliance with provisions contained in this section.

A. *Administrative inspection warrant.* In the event a person who has common authority over a building, structure, or land does not permit an inspection, the City may seek an administrative inspection warrant.

B. *Vacant or abandoned properties.* In the event a building, structure, or land appears to be vacant or abandoned and the property owner cannot be readily contacted in order to obtain consent for an inspection, the Land Use Administrator may enter into or upon any open or unsecured portion of the site in order to conduct an inspection.

10.03.08. *Variances.*

A. *Variance criteria.* A property owner may request a variance from the requirements of this section. Upon City staff recommendation, the Utility Advisory Committee may perform a complete technical review for all variance applications and provide a recommendation to the Planning and Land Development Regulation Board. The Planning and Land Development Regulation Board shall have the authority to approve or deny issuance of a variance. In order to obtain a variance, the applicant must demonstrate by a preponderance of substantial, competent evidence that special or unusual circumstances and adequate technology exist to isolate the facility or activity from contaminating groundwater resources in the event of a spill. In granting or denying a variance, the City shall evaluate the following factors:

1. Substances or chemicals utilized that may impact groundwater resources if not properly managed;
2. Proposed containment/management of substances or chemicals;

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3. Spill prevention and emergency response plans;
 4. Emergency collection devices and equipment maintenance programs;
 5. Monitoring plans and inspection procedures;
 6. Spill reporting procedures;
 7. Groundwater and/or soil monitoring programs;
 8. Hydrological data that may include, upon City request, capture zone analysis, groundwater flow contours, and other hydraulic characteristics of the aquifer;
 9. Distance from public supply well(s) and applicable wellhead protection zone(s);
 10. Other factors, as applicable to groundwater protection issues.
- B. *Variance application requirements.* In addition to the requirements stated in Chapter 2 for variance applications and review procedures, the following additional requirements shall apply to variances from this section:
1. The application shall be signed by the applicant and a licensed professional engineer or professional geologist licensed in the state of Florida;
 2. The application shall include:
 - a. A hydrogeologic assessment of the site, which shall address, at a minimum, soil characteristics, groundwater levels, groundwater directional flow, distance from wellhead, and existing groundwater quality;
 - b. A technical report to demonstrate that adequate technology, practices, or other controls exist to isolate the facility or activity from the potable water supply in the event of a spill;
 - c. A discussion and documentation, such as published reports, technical articles, substantiating sufficient performance, and reliability of a proposed technology or system. Include discussion of maintenance and procedures to be utilized if system fails; and
 - d. Site-specific applicable groundwater protection best management practices procedures to ensure the protection of groundwater resources.
 3. The Land Use Administrator may require additional information based on the type of land use activity proposed, chemicals utilized, distance from wellheads, or other applicable information needed to evaluate the application.
 4. The City may add any appropriate conditions and safeguards necessary to protect groundwater resources pursuant to such special exemptions.

(Ord. No. 2009-26, § 49, 12-15-09)

Sec. 10.04. - Endangered and Threatened Species and Species of Special Concern.

10.04.01. *Purpose and intent.* The purpose of this section is to protect the natural resources of the City for the benefit of its citizens by preventing the destruction of listed plant and animal species in the City. The City shall take all reasonable steps to ensure that all development related activities do not result in the harming, pursuit, or harassment of wildlife species classified as endangered, threatened, or a species of special concern listed by the federal or state government. Those endangered and threatened wildlife species and wildlife species of special concern with the potential to exist within the City are determined by the United States Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, the Florida Natural Areas Inventory, and Florida Committee on Rare and Endangered Plants and Animals publications. The City shall protect endangered and threatened species through the

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regulatory authority of Florida Department of Environmental Protection, St. Johns River Water Management District, Florida Fish and Wildlife Conservation Commission, and the United States Fish and Wildlife Service, as mandated by the Federal Endangered Species Act of 1973 and the Florida Endangered and Threatened Species Act of 1977, and other applicable laws, rules, and regulations.

10.04.02. *Applicability.* All development, regardless of size and location, shall comply with federal and state regulations regarding listed species that may be located on a development site, as well as regulatory policies related to management requirements for species that may occur off-site (e.g. American bald eagle nests and associated protection zones, Florida scrub jay nest sites/territories). Prior to the issuance of a building permit, the applicant shall obtain all necessary federal and state permit authorizations, as appropriate.

10.04.03. *Listed species protection application and study.* Listed species likely to be found within the City are determined by the United States Fish and Wildlife Service, Florida Fish and Wildlife Conservation Commission, Florida Natural Areas Inventory, and Florida Committee on Rare and Endangered Plants and Animals publications.

- A. *Applicability.* All applications for preliminary plats or site plans shall include a listed species study. The listed species study shall be completed by a qualified environmental professional. The listed species study, after deemed complete by the Land Use Administrator, shall be acceptable for one year for the property that was investigated. The listed species study shall include appropriate field investigation and associated exhibits prepared in accordance with an application form adopted by administrative rule issued by the Land Use Administrator.
- B. *Management plan.* Where listed species evidence is found, the listed species study shall include a management plan. The management plan shall address the approach to be used in protecting the species or shall include an authorized permit from the appropriate federal or state agency. The adequacy of this approach shall be evaluated based on the following:
 1. The specific guidelines and regulations of the Florida Fish and Wildlife Conservation Commission or the United States Fish and Wildlife Service for species.
 2. The dedication as a conservation easement of any approved areas preserved for listed species protection.
 3. The connection of conservation easements on the subject development property to any such conservation easements on adjoining properties and/or to any designated wildlife corridor unless the applicant demonstrates to the satisfaction of the Land Use Administrator that such connection is impractical in the use of the subject property.
 4. The property owner shall be responsible for relocating gopher tortoises on site or other suitable locations as approved by the Florida Fish and Wildlife Conservation Commission and providing an approved After-Action Report prior to any clearing activities.

10.04.04. *Listed species protection during construction activities.* In the absence of an appropriate listed species permit(s), development related activities shall not cause the harming, pursuit, or harassment of wildlife species classified as endangered, threatened, or a species of special concern by either the federal or state governments in contravention of applicable federal and state laws, rules, or regulations. Should listed species reside on, or otherwise be significantly dependent upon the subject property, all development activities that might negatively affect that individual or population shall cease. The applicant shall notify the City, the Florida Fish and Wildlife Conservation Commission, and the United States Fish and Wildlife Service, to the extent required by law, if such species are determined to be residing on, or are otherwise significantly dependent upon, the project site. Property shall be developed in full compliance with all applicable laws, rules, and regulations. Proper protection to the satisfaction of all agencies with jurisdiction over the matter shall be provided. Where appropriate, the City shall require a preliminary gopher tortoise survey for existing single-family platted lots prior to the initiation of construction activities. The preliminary gopher tortoise survey shall be conducted by a qualified environmental professional and results of said survey shall be submitted to the City for review. Should

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gopher tortoises be present on the subject property, the permit and After Action Report all necessary permits shall be submitted to the City prior to the commencement of any ground disturbing activities commencement of construction activities. Gopher tortoises shall be relocated to suitable habitats in accordance with FWCC permit requirements.

10.04.05. Wildlife Crossing. In areas of wildlife corridors where the project proposes fragmenting habitats or conservation corridors, site plans should include dedicated wildlife crossings to minimize ecological impacts and preserve natural movement of wildlife.

Sec. 10.05. - Cultural and Historic Resources.

10.05.01. *Purpose and intent.* The purpose of this section is to protect and manage the significant historic and archaeological resources of the City of Palm Coast to the maximum extent feasible, by providing procedures for the review of plans and development projects as well as maintain standards for the protection and management of these important resources.

10.05.02. *Lands not subject to cultural resource survey.* A cultural resource field survey and assessment report is not required for parcels that have undergone a cultural resource investigation within 5 years from the time of application, and the assessment concludes that the land does not contain cultural resources that are considered by the Florida Department of Historical Resources State Historic Preservation Officer to be significant or potentially significant. A copy of correspondence from the state historic preservation officer shall be submitted to the City, verifying that the subject property does not contain significant or potentially significant cultural resources.

10.05.03. *Lands subject to cultural resource investigation assessment survey and other archeological investigation.* A Phase 1 cultural resource investigation shall be accomplished before the issuance of a development order or permit or prior to the commencement of construction activities, or any other physical impact or disturbance of land that:

- A. Takes place within a parcel that has not been previously investigated surveyed for cultural resources.
- B. Takes place within a parcel that contains a site that is listed in the Florida Master Site File (FMSF) as "eligiblesignificant" or as "potentially eligiblesignificant" for listing in the National Register of Historic Places (the criteria by which site significance is measured), or in the City of Palm Coast's protected sites inventory, thus requiring further investigation.
- C. Takes place within a recently discovered site deemed significant (NRHP criteria) that has not yet been recorded to entered into the Florida Master Site File or listed in the City of Palm Coast's protected sites inventory.
- D. Takes place on a parcel that has been determined to possibly contain a potential site that can be listed in the Florida Master Site File as determined by the Land Use Administrator.
- E. If the results of the Cultural Resource Investigation are deemed unsatisfactory by City staff, the City may require, at the applicant's expense, an additional Cultural Resource Investigation from another cultural resource professional.

10.05.04. *Professional qualifications and cultural resource assessment survey requirements.*

- A. *Professional qualification.* Cultural resource professionals are certified archaeologists that meet the qualification in "The Secretary of the Interior's Historic Preservation Professional Qualification Standards" (Federal Register Vol. 62, No. 119, p. 33707).
- B. *Cultural resources assessment survey and assessment.* Cultural resource assessment surveys and related reports shall follow the guidelines of the Florida Division of Historical Resources,

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Department of State, (Guidelines for Cultural Resource Assessment Surveys (CRAS) and Archaeological Investigations outlined in Florida Division of Historical Resource Module 3, as amended, shall be followed; reporting of CRAS surveys shall follow DHR Chapter 1A-46 (Archaeological and Historical Report Standards and Guidelines), as amended, and the requirements of all applicable Florida Statutes. The SHPO reviews the referenced project in accordance with Chapter 267 and 373, Florida Statutes, and implementing state regulations, for possible effects on historic properties listed, or eligible for listing, in the National Register of Historic Places, or otherwise historical, architectural, or archeological value. Prior to the issuance of a development order or permit, or prior to the commencement of construction activities, a copy of a survey clearance letter issued by the Compliance Review Section, Division of Historical Resources, or other documentation of authorization by the State Historic Preservation Officer, shall be submitted to the City. Management recommendations regarding the protection, preservation, or mitigation of impact of historical or archaeological sites, in concurrence with the Division of Historical Resources should be followed. In addition, copies of Florida Master Site File forms generated during the cultural resource assessment study for the Division of Historical Resources shall be submitted to the City for their records. All Florida Master Site File forms generated for a City of Palm Coast LDC permit-required cultural resource assessment survey, or any other type of archaeological work shall be submitted to the Florida Master Site File, Division of Historical Resources, by a COPC official with the Parks & Recreation Department or the Planning Division. In some cases (to be determined by a COPC official) An initial site investigation may be utilized to determine cultural resource site probability for lands requiring a cultural resource investigation as approved by a certified archaeologist utilizing necessary criteria in accordance with state law to determine cultural resource site probabilities. Said criteria include, but are not limited to, Florida Master Site File, historical information (historic map review) data, soil types, and site and elevations, and proximity of the subject property to freshwater drainages such as rivers and creeks, coastal estuaries (Intracoastal Waterway) and subsistence-related natural resources. The following may substitute for a cultural resource assessmentsite survey and assessment if certified by a RPA certified professional archaeologist in writing to the Land Use Administrator:

1. A determination that subject property has a low probability of yielding cultural resources.
2. A determination that proposed development activities will have no effect on cultural resources listed or eligible for listing in the National Register of Historic Places.
3. A determination that proposed development activities will have no effect on cultural resource value under federal and state requirements.

10.05.05. *Property containing potential and significant cultural resource sites.* If a property proposed for development to contain is determined to have a potentially significant or a significant cultural resource in areas proposed for development, the City shall adhere to the recommendations of the State Historic Preservation Officer and shall require the applicant to do one or more of the following prior to the issuance of a development order or permit:

- A. Preserve cultural resources within the open space of the proposed development.
- B. Redesign the development to accommodate preservation of all or a portion of the site containing the cultural resource such as but not limited to— environmental setbacks, conservation easements, pocket parks, or conservation land.
- C. The property owner may voluntarily fund or seek funding for Phase 3 mitigative excavations (data extraction) of the resource, if agreed to by the Florida Department of Historical Resources/State Historic Preservation Office.

10.05.06. *Fortuitous finds and unmarked human burials.* The following requirements apply to all building construction or alteration, or land alteration activities:

- A. *Evidence of the existence of cultural resources.* If evidence of the existence of cultural resources is discovered or observed at development sites or during development activities after final approval, permits, or issuances of development orders, all work shall cease in the area of effect.

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The developer, owner, contractor, or agent thereof shall immediately notify a professional archaeologist and the City. Examples of such evidence include whole or fragmentary stone tools, shell tools, ~~indigenous~~~~aboriginal~~ or historic pottery, bone tools, historic ~~building-structures~~ foundations, ~~burial~~~~shell~~ mounds, shell middens, ~~or~~ sand mounds, or other types of prehistoric mounded architecture. A professional archaeologist selected and hired by the applicant, shall assess the significance of the finds and, if warranted, notify the Florida ~~Division~~ Department of Historical Resources/State Historic Preservation Office in accordance with federal and state requirements. A report or letter shall be submitted to the City from a professional archaeologist and, if warranted, a copy of a clearance letter from the ~~S~~state ~~H~~historic ~~P~~reservation ~~O~~fficer indicating that the proposed development will have no effect on cultural resources listed or eligible for listing in the National Register of Historic Places, or otherwise of historical, architectural, or archaeological value.

- B. *Discovery of human skeletal remains.* In accordance with the Florida Statutes, if any human skeletal remains or unmarked human burial is discovered, other than during a cultural resource excavation authorized by the state or an educational institution, all activity that may disturb the unmarked human burial shall cease immediately and the district medical examiner shall be notified. Such activity shall not resume unless specifically authorized by the district medical examiner or the state archaeologist.

In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately, and the proper authorities notified in accordance with Section 872.05, Florida Statutes. During archaeological investigations, if a site is determined to contain unmarked human burials and/or human skeletal remains, by procedure these will be brought to the attention of a District Medical Examiner, if it was determined that the burial(s) represent an individual (or individuals) who had been dead less than 75 years, or to the attention of the State Archaeologist in the case that the remains were determined to be older than 75 years. If a site is determined to be a prehistoric indigenous site, all work will be done in coordination with the State Archaeologist (Florida Division of Historical Resources) who will make a final determination of adverse effect through the authority of their respective jurisdiction as defined by Florida Statutes. Procedures outlined in Chapter 872.05, Florida Statutes, will be followed regarding site mitigation and reporting, this through the authority and direction of the State Archaeologist and, if necessary, the District Medical Examiner. In some cases, the State Historic Preservation Office will make the determination to seek the consultation and review comments by the Tribal Historic Preservation Office (THPO)/Seminole Tribe of Florida (STOF).

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(Ord. No. 2009-26, § 50, 12-15-09)