

CHAPTER 1 – GENERAL PROVISIONS

ARTICLE I. ADOPTION OF THE UNIFIED LAND DEVELOPMENT CODE

Section 1.1.1. Title and Authority

- A. This Ordinance is known and cited as the City of North Port’s “Unified Land Development Code” and referred to herein as the “ULDC.” The City of North Port adopts these regulations in accordance with F.S. Chapter 163 on Intergovernmental Programs, F.S. Chapter 166 on General Municipal Powers, and the North Port Charter.
- B. The North Port City Commission hereby approves and adopts the North Port Unified Land Development Code, which shall take effect on **DATE** via **ORDINANCE**. Applications and inquiries initiated after the effective date shall conform to the adopted requirements, except as provided for in **SECTION**

Section 1.1.2. Purpose and Intent

The general purpose of the ULDC is to establish procedures and standards for developing land within the City’s corporate boundaries. The ULDC intends to promote public health, safety, and welfare, enforce and implement the City of North Port’s Comprehensive Plan, and permit orderly growth and development within the City.

Section 1.1.3. Relationship to the Comprehensive Plan

- A. The City Commission and the Local Planning Agency intend for the ULDC to implement the requirements of the Florida State Statutes by specifically addressing the following provisions:
 - (1). Regulation of the subdivision of land, including review procedures, design and development standards, provisions for adequate public facilities, mitigation of development impacts, land dedications, fees, and administrative requirements;
 - (2). Implementation of performance standards for site design to encourage the development of sound and stable areas within the City boundaries;
 - (3). Coordination of land development in accordance with orderly physical patterns and general plans and policies adopted by the City Commission;
 - (4). Adherence to prescribed standards by the land developer of those required improvements should not become a charge on the citizens and taxpayers of already existing areas;
 - (5). Adequate and efficient supply of utilities, streets, and services to new land developments;
 - (6). Prevention of traffic hazards and congestion which result from narrow or poorly aligned streets, excessive ingress and egress points along major traffic arteries, and the provision of safe and convenient traffic circulation, both vehicular and pedestrian, in new land development;
 - (7). Safety from fire, panic, and other dangers, to promote health and the general welfare;
 - (8). Regulation of areas subject to seasonal and periodic flooding and the provision of drainage and stormwater management;
 - (9). Protection of natural and scenic resources of the City, including surface waters and groundwater recharge areas; and
 - (10). Implementation of impact fees, developer exactions, open space, park dedication requirements, redevelopment district, stormwater management, utility, and associated fees.

Section 1.1.4. Applicability and Exceptions

- A. The City of North Port Department responsible for land development services shall administer the regulations and requirements delineated in the ULDC. The City shall abide by the State retention law for all official applications for development submitted to the City, as amended from time to time.

- B. These regulations are applicable within the City's corporate limits and intended for use in an advisory capacity throughout the City planning areas identified in the North Port Comprehensive Plan.
- C. Nothing in the ULDC authorizes development that is not consistent with the City's adopted Comprehensive Plan. When conflict arises, the City's adopted Comprehensive Plan shall prevail.
- D. Exceptions. The provisions of the ULDC and any amendments thereto shall not affect the validity of any building permits or development orders lawfully issued prior to the effective date of the ULDC if:
 - (1). The development activity authorized by building permit or development order commenced prior to the effective date of the ULDC or will commence after the effective date of the ULDC but within one (1) year of issuance of the building permit or development order; and
 - (2). The development activity continues without interruption by non-activity for one hundred eighty (180) days until the development is complete, except as extended according to the regulations herein or provided for in the Florida Statutes. If the building permit or development order expires, further development on that site shall conform to the requirements of the ULDC or amendment thereto.

Section 1.1.5. Terminology

- A. Definitions are found in the Appendix of the ULDC and shall apply to the entirety of the Unified Land Development Code. When a term is not clearly defined, the common and approved usage of the word shall apply according to an ordinary dictionary or industry standard.
- B. The Unified Land Development Code Administrator, "ULDC Administrator," is the Director of the department responsible for land development services or a designee.
- C. "Shall" and "May." Shall is an imperative command, indicating that specific actions are mandatory and not permissive. "Shall" contrasts with the word "may," which is generally used to indicate a permissive provision, ordinarily implying some degree of discretion.

Section 1.1.6. Interpretation and Severability

- A. The City shall interpret the Unified Land Development Code as minimum requirements to promote public health, safety, or general welfare. When provisions of the ULDC conflict, the provision imposing a more significant restriction shall govern.
- B. The ULDC Administrator shall interpret the ULDC when questions of interpretation arise. In cases of conflicting interpretation, follow the appropriate appeals process specified in Chapter 2.
- C. Whenever a provision or section requires the City Manager, department director or designee, or employee to perform a function, delegating that function to qualified subordinates is authorized unless the terms of the provision or section specify otherwise.
- D. References. When a provision of the ULDC refers to or incorporates another provision, Ordinance, statute, rule, regulation, policy, official publication, or other authority, it refers to the most current version, incorporating any amendments thereto or re-designation thereof.
- E. Computation of time. When the ULDC denotes a specific amount of time for completion, use calendar days to calculate the timeline for a task. This calculation shall exclude the day of submittal and extend to the end of business on the last day. If the last day is a Saturday, Sunday, or legal holiday, recognized officially by City Commission, the deadline shall extend to the next available weekday.
- F. Should a court of competent jurisdiction declare any provision of these land development regulations invalid, all other provisions shall remain in full force and effect.

Section 1.1.7. Vested Rights

- A. Pursuant to F.S. Chapter 163, nothing in the ULDC shall limit or modify the rights of any person to complete an authorized development of regional impact according to F.S. Chapter 380. Nor shall any project issued final development order or project continuing in good faith be limited or modified.
- B. Any person may request, in writing, a determination of vested rights from the City of whether the person has a right to complete a project under these regulations or F.S. Chapter 163, notwithstanding the imposition of concurrency requirements. The department responsible for land development services shall approve or disapprove a vested rights request per the procedures described in these regulations.

Section 1.1.8. Transitional Rules

- A. Existing unlawful uses, lots, and structures. A structure, lot, or use not lawfully existing at the time of the adoption of these regulations is lawful only if it conforms with all requirements of these regulations. All violations of prior regulations of the City as of the effective date of this Ordinance shall remain violations and shall not qualify as legal nonconformities under the ULDC unless such use, lot, or structure becomes lawful by the adoption of the ULDC.
- B. In-process prosecution. Pending prosecution as of the effective date of the ULDC shall continue as defined under the prior ULDC unless the new ULDC makes the existing violation moot. Under that condition, prosecution ceases with each party responsible for its costs to date.
- C. Conditions of previously approved development permits. Land development permits and conditional uses with attached conditions shall remain in full force and effect on the land they were approved, regardless of ownership or occupant change, unless the adopted ULDC provisions create a situation where the conditions no longer apply.
- D. Pending building permits. Unless requested otherwise in writing, the ULDC in place at application submission shall apply to all land development not authorized by an active development order. When an applicant applies for a permit prior to the adoption of the new ULDC, but the City does not issue a building permit within 60 days of application, the applicant shall resubmit the building permit application and supporting documents demonstrating compliance with the ULDC.
- E. Pending Development Permits. Unless requested otherwise in writing, the ULDC in place at application submission shall apply to all development permit applications. When an applicant submits an application for a development permit prior to the adoption of the new ULDC, but a final decision is not rendered within 180 days of adoption, the applicant shall resubmit the application to be consistent with the provisions of the ULDC.

Section 1.1.9. Nonconforming Land, Structures, and Uses

- A. This section provides for the continuation, modification, or elimination of nonconforming uses, structures, and signs per the standards and conditions in this Article. To support the purpose of the ULDC, the provisions of this Article shall encourage the improvement or elimination of nonconformities. This Article also describes which nonconformities may continue.
- B. Types and Standards.
 - (1). Nonconforming Lots of Record. In any district, nonconforming lots of record, including lots of record reduced in size due to an eminent domain process, may be developed according to the regulations of the designated zoning district.
 - (2). Nonconforming Structures. Except as provided elsewhere in these regulations, a nonconforming structure may continue subject to the following:
 - a. A nonconforming structure shall not be altered or enlarged in a way that increases the extent of nonconformity.
 - b. Destruction or damage of nonconforming structures:

1. When a nonconforming structure is damaged or destroyed to an extent exceeding fifty (50) percent of its fair market value, the property owner may not rebuild the structure unless it conforms to the requirements of the ULDC .
 2. Nonconforming residential structures (including accessory structures) may be reconstructed with an approved Special Exception if damaged or destroyed by natural causes. Reconstruction of the nonconforming structure may not increase the extent of the nonconformities existing prior to destruction.
- (3). Nonconforming Uses. A nonconforming use shall not be enlarged or expanded. Renovations, repairs, or changes to nonconforming uses may be permitted, subject to the following requirements:
- a. The total cost of the improvements is less than fifty (50) percent of the fair market value of the structure and improvements; and
 - b. The nonconforming use and associated site shall be brought into compliance to the maximum extent practicable as determined by the Director responsible for land development services or designee.
- (4). Discontinuance. A property owner may not reestablish a nonconforming use after a period of discontinuance. The property's future land use shall conform with the provisions of these regulations.
- a. Nonresidential use after six (6) months of discontinuance.
 - b. Residential use after one (1) year of discontinuance.

Section 1.1.10. Violations, Remedies, and Penalties

- A. Anyone may file a complaint when a perceived violation of these zoning regulations occurs. The department responsible for land development services shall record the complaint per state statute requirements, investigate, and proceed with the applicable corrective measures provided by these regulations.
- B. Should a property owner or applicant violate any provisions of the ULDC , the City Commission or designee may pursue any combination of the following remedies:
 - (1). Seek damages or injunctive relief against the violator in the Circuit Court Sarasota County, Florida, with all reasonable attorney's fees awarded to the prevailing party and paid by the losing party.
 - (2). Refer the violations to ULDC enforcement for action.
 - (3). Revoke, either permanently or temporarily, any permits, development orders, or any other development rights granted by the City.

ARTICLE II. ZONING DISTRICTS AND OFFICIAL ZONING MAP

Section 1.2.1. Purpose and Intent

The purpose of zoning districts and the official zoning map is to implement the Future Land Use Element of the Comprehensive Plan. This Article intends to establish official zoning districts, maps, and boundary regulations to aid in the understanding and references to these zoning regulations. Should the zoning district of a parcel be declared invalid, the new zoning designation shall be the district most consistent with the parcel’s Future Land Use classification.

Section 1.2.2. Establishment of Zoning Districts

The City of North Port hereby subdivides all lands and waters within its corporate boundaries into the following districts:

Table 1.2.2: Zoning Districts and Overlays

Zoning Symbol	Zoning District
AC-1	Activity Center 1
AC-2	Activity Center 2
AC-3	Activity Center 3
AC-4	Activity Center 4
AC-5	Activity Center 5
AC-6	Activity Center 6
AC-7	Activity Center 7
AC-8	Activity Center 8
AC-9	Activity Center 9
C	Commercial
EC	Environmental Conservation
GU	Government Use
I-1	Light Industrial
I-2	Heavy Industrial
MH	Mobile Home Community
MX-1	Mixed-Use Transitional
MX-2	Mixed-Use
RE	Residential, Estates
RS-1	Residential, Low
RS-2	Residential, Medium
RS-3	Residential, Multi-Family
V	Village
Symbol	Overlays
VDPP	Village District Pattern Plan

Section 1.2.3. The Official Zoning Map

The Unified Land Development code establishes and incorporates the Official Zoning Map into these regulations by reference. The Official Zoning Map shows the boundaries of all Zoning Districts as adopted by the City Commission.

- A. Maintenance. The Official Zoning Map shall be the official record of the zoning status of land within the City. The City shall maintain the map electronically. The City is divided into districts, or zones, as provided by this Ordinance. The department responsible for land development services shall maintain the

electronic format of the map within the City's Geographic Information System (GIS) as the zoning layer. The map will be updated regularly following approval of zoning changes by the City Commission.

- B. Map Amendments. As amended from time to time, the Official Zoning Map shall be kept on file and made available for public reference in the Office of the City Clerk and the department responsible for land development services. The Director in charge of land development services shall ensure an accurate depiction of zoning district boundaries on the zoning map. The City Clerk shall keep records of the official actions amending the zoning map on file, including the date of such action, the land area affected, and the posting date.
- C. Record keeping. Should the map or any portion thereof become damaged, destroyed, or lost, the City Commission is authorized, by Ordinance, to replace the map or damaged portion. The new map shall supersede the one replaced. The new map may correct drafting or other errors, but no replacement shall change the zoning status of a property. The City Clerk shall preserve any records relating to its adoption and amendment.
- D. Unauthorized changes. Except as provided herein, substantial changes affecting the zoning of a property are strictly prohibited and unlawful.

Section 1.2.4. Interpretation of District Boundaries

- A. Zoning district regulations apply to all areas included within the district's boundaries on the official zoning map. Table 1.2.2 describes the zoning district symbols, which indicate the appropriate district regulations for all properties within the district boundaries depicted on the map.
- B. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply under the discretion and interpretation of the ULDC Administrator. Interpretation of district boundaries shall attempt to minimize adverse effects on zoning status.
 - (1). District boundaries follow the approximate center lines of dedicated streets, roadways, highways, alleys, or rights-of-way as they exist on the ground. The district boundary shall remain at the centerline of a vacated right-of-way unless the division of ownership is not at the center of the street or right-of-way. In this case, the boundary shall follow the division of ownership.
 - (2). District boundaries depicted on the Official Zoning Map as approximately following lot lines, public property lines, and other property boundaries shall follow those lines as they exist on the ground. When such boundaries are adjacent to a dedicated street, roadway, alley, highway, or right-of-way, the boundaries shall run to the middle of the street, roadway, highway, alley, or right-of-way.
 - (3). Boundaries shall follow the City limits as they exist on the ground when indicated as approximately following City limits on the map.
 - (4). Boundaries shall follow the City limits as they exist on the ground when indicated as approximately following City limits on the map.
 - (5). Boundaries that follow mean high-water lines or center lines of streams, canals, lakes, or other bodies of water shall follow the feature as they exist on the ground. In cases where the mean high-water line or the course or extent of bodies of water changes over time, the boundaries shall move with the change. Boundaries indicated as entering a body of water shall be interpreted to extend in the direction in which they enter the body of water and intersect with other zoning boundaries or the limits of the City's jurisdiction.
 - (6). When a property is determined to lie in more than one zoning district:
 - a. If a property contains two (2) or more zoning designations, the district covering most of the property governs.
 - b. Without a majority of the property depicted as any discernable zoning district, the property owner or applicant may submit for a zoning certificate or provide a rationale

for their zoning preference as part of a development application. In cases where the property owner or applicant does not agree with the zoning determination, an appeal to Zoning Board of Appeals may be requested.

- C. Cases not covered by subsection B above. In the circumstances not covered by subsection B above, or where the property or street layout existing on the ground is at variance with that shown on the Official Zoning Map, the Director responsible for land development services shall interpret the Official Zoning Map per the intent and purpose of these zoning regulations. Appeal from such interpretation shall be to the Zoning Board of Appeals in conformity with **Section 2.X.X** of the ULDC .
- D. Overlays on the Zoning Map. When a single parcel of land contains both a base zoning district boundary and an overlay, the overlay acts as a supplemental zoning regulation to define specific uses, development standards, and design.
- E. Prior Zoning Districts. The City of North Port hereby reclassifies all existing zoning districts to the districts described in Chapter III, Zoning Regulations, per Table **XXX**.

Table 1.2.4: New/Old Matrix

New District	Previous District
AC-1 AC-2 AC-3 AC-4 AC-5 AC-6 AC-7 AC-8 AC-9	PCD
C	CG CGS OPI ComRec
EC	CD
GU	GU ROS UIC
I-1	ILW
I-2	ILW

MH	RMH
MX-1	OPI NC
MX-2	PCD
RE	AG
RS-1	RSF-2
RS-2	RSF-3 RTF
RS-3	RMF
V	V

ARTICLE III. CONCURRENCY MANAGEMENT

Section 1.3.1. Purpose and Intent

- A. The City Commission declares that the concurrency requirements of the Community Planning Act contained in F.S. Chapter 163 are a public necessity and essential in protecting and enhancing the quality of life in the City, the county, and the state.
- B. This Article's purpose is to ensure the availability of public facilities and adequacy of public facilities at the adopted levels of service concurrent with the impacts of development.
- C. This Article intends to serve as the principal mechanism for managing growth consistent with the City of North Port's Comprehensive Plan and monitoring the Comprehensive Plan's effectiveness and capital improvements' programming.

Section 1.3.2. Concurrency Coordinator and Annual Report

- A. The ULDC Administrator shall designate a Concurrency Management Coordinator (CMC) responsible for the implementation of this section.
- B. The CMC shall have the authority to require the lead agencies/departments for each public facility to provide concurrency evaluations consistent with this section to ensure that approval of development permits will not result in reduced levels of service.
- C. The CMC shall establish and maintain a concurrency monitoring system to oversee the status of public facilities and services and provide necessary data for the annual report.
- D. By October 1 of each year, the CMC shall prepare a concurrency annual monitoring report and convey the annual report to City Commission.
 - (1). The annual report shall include a review of the current levels of service and capacity for all the adopted levels of service standards incorporated in the plan.
 - (2). Nothing herein precludes the issuance and effectiveness of more frequent concurrency reports. If updates or corrections are necessary, including but not limited to circumstances where: errors are noted; the impact of issued development orders, as monitored by the CMC, indicates a degradation to the adopted level of service; or where changes in the status of capital improvement projects change the underlying assumptions of the annual concurrency report.
 - (3). The concurrency report shall not divest those rights acquired by a preceding concurrency annual report, except where a known danger exists to the public's health, safety, or welfare.

Section 1.3.3. General Requirements

- A. All development applications submitted to the City shall be subject to concurrency review based on the City's adopted level of service standards.
- B. Public Facility Categories Subject to Concurrency Review:

Table 1.3.3: Concurrency Review and Reviewing Agency

Category	Agency
Transportation	Public Works, Infrastructure
Potable Water	Utilities
Wastewater	Utilities
Reclaim Water	Utilities
Recreation and Open Space	Parks and Recreation
Solid Waste	Public Works, Solid Waste
Public Schools	Sarasota County Schools

C. The following types of development are exempt from Concurrency Review:

- (1). Single- and two-family dwellings
- (2). Projects with de minimis impacts.

Section 1.3.4. Level of Service Standards

A. Level of service (LOS) is the minimum level of service standards required for all development within the City of North Port. The following are the minimum LOS standards required for public facilities and services:

(1). **Potable water.**

- a. The LOS for potable water facilities shall be the Florida Department of Environmental Protection (FDEP) permitted treatment capacity of the facilities respective to the raw water withdrawal limits as permitted by the Southwest Florida Water Management District (SWFWMD), whichever is more stringent.
- b. The potable water supply system shall maintain a minimum fire flow pressure of 20 pounds per square inch (psi).
- c. Applicants may agree to extend existing facilities or construct improvements to the City's potable water system through a Development Agreement per Chapter 2 of the ULDC.

(2). **Sanitary Sewer.**

- a. Treatment/Disposal. See City's Code of Ordinances Sec. 78-30, with quality meeting or exceeding Environmental Protection Agency (EPA) and Department of Environmental Protection DEP Standards.
- b. Collection. In all currently unplatted areas, the developer, by agreement with the City, must extend sewer collection with the appropriate force mains and provide or upgrade lift stations necessary to serve the area concurrent with the development. In addition, the developer will assure his commitment to pay capacity fees and confirm the available capacity of the City's wastewater treatment plant prior to development.
 1. Residential: In all currently platted areas, the City may extend lines pursuant to the Capital Improvements Element and the utility master plans per the Comprehensive Plan. The developed lots adjacent to the gravity sewer line shall connect to the line within three hundred sixty-five (365) days of notification of sewer availability.
 2. Commercial: All new commercial development within the City will be served by a central sanitary sewer, as determined by the City of North Port Staff.
 3. Industrial: All new industrial development within the City will be served by a central sanitary sewer, as determined by City of North Port staff. Each industry must also provide pretreatment of any industrial discharge per the Utility Department requirements.
 4. On-site pretreatment and treatment systems will be allowed when the City requires additional treatment complementary to the City's central sewer system consistent with rules and regulations promulgated by State, Federal, and local agencies.

(3). **Reuse Water.** The current agreements established by the City with the existing reuse water customers indicate that the City of North Port has committed to providing up to a combined 1.88 mgd of reuse water supply to existing customers.

(4). **Solid waste.**

- a. Residential: Garbage, recycling, and yard waste at a minimum, one (1) time per week. Bulk collection, as needed.

- b. Commercial: As needed.
- (5). **Parks and recreation.** The City adopts a level of service of 10 acres of recreation and open space area per 1,000 population to be allocated, among three (3) park classifications, with the following minimum acreage classifications:
 - a. Half-acre (0.5) pocket parks
 - b. One and one-half (1.5) acres of community park
 - c. One and one-half (1.5) acres of open space
 - d. Seven (7.0) acres of conservation
- (6). **Transportation.**
 - a. Principal Arterial—LOS Standard "D"
 - b. Rural Major Collector—LOS Standard "D"
 - c. Urban Collector Roadways—LOS Standard "D"
 - d. Rural Minor Collector Roadways—LOS Standard "D"
- (7). **Public schools.** The City of North Port shall coordinate with Sarasota County Schools to ensure sufficient school facilities. Sarasota County Schools evaluate formal school concurrency applications based on their adopted concurrency standards. All residential development, except those indicated as exempt below, is subject to a school concurrency review to determine potential capacity issues.
 - a. Exempt. The following development orders for residential development shall be exempt from the requirements of school concurrency:
 1. Projects that meet the threshold for de minimis impact.
 2. One- and two-family development on an existing platted residential lot of record
 3. Buildings or structures that have received a building permit as of the effective date of these regulations.
 4. Amendments to previously approved projects that do not increase the number of dwelling units or change the types of dwelling units
 5. Age-restricted communities subject to the submittal of the School Board's policies of required documentation.
 6. Development of Regional Impact that has filed a complete application for a development order prior to May 1, 2005, or a development order was issued prior to July 1, 2005, unless the application was withdrawn, denied, expired, or amended to include additional dwelling units,
 7. Projects with a letter of vesting for purposes of complying with school concurrency or where the law or equitable estoppels would confer the project's units

Section 1.3.5. Certificate of Concurrency

- A. Generally. Concurrency is reviewed as part of a development permit application unless an applicant requests a preliminary concurrency review.
- B. Preliminary Review. Applicants may request a preliminary concurrency review, and the City may issue a conditional certificate of concurrency. Conditional certificates are not binding upon the City and are only valid until the CMC publishes the next annual report.
- C. Certificate of Concurrency. The formal concurrency review compares the available and reserved capacity of the facility or service to the demand projected for the proposed development. The certificate of concurrency shall indicate the date of issuance and automatically expire simultaneously with either the expiration of the associated development order or the Certificate of Occupancy issued with the completion of construction. The Concurrency Management Officer may extend the concurrency certificate's expiration upon written request.

- D. Insufficient Capacity. When capacity is not available for a proposed development, the following methods may alleviate the level of service deficiencies:
- (1). A Comprehensive Plan amendment limiting the adopted level of service standard for the affected facilities or services.
 - (2). An enforceable Development Agreement, per Chapter 2 of the ULDC, between the City and the applicant to provide the necessary improvements, which may include a Proportionate Fair-Share agreement.
 - (3). A reduction in the scale or impact of the proposed development.
 - (4). Phasing of the proposed project.

Section 1.3.6. Proportionate Fair-Share

- A. Generally. The Proportionate Fair-Share Program applies to all developments in the City that impact a road segment in the City's Concurrency Management System and fails to achieve transportation concurrency. The Proportionate Fair-Share Program does not apply to developments considered de minimis or developments exempt from concurrency.
- B. Requirements. An applicant may choose to satisfy transportation concurrency requirements by making a proportionate fair-share contribution via a Development Agreement according to the following:
- (1). The proposed development is consistent with the Comprehensive Plan and applicable land development regulations.
 - (2). The City Manager or designee may allow an applicant to satisfy transportation concurrency through the Proportionate Fair-Share Program by contributing to an improvement included in the Five-Year Capital Improvements Program. Upon completion, the contribution should accommodate the additional traffic generated by the proposed development. When the Five-Year Capital Improvement Program does not include a recommended improvement, the following apply:
 - a. The City adopts, by resolution or Ordinance, a commitment to add the proposed improvements to the Five-Year Capital Improvement Program no later than the next regular update to qualify for consideration under this section.
 - b. The City Manager or designee shall review the proposal and determine the financial feasibility. "Financially feasible" means that additional developer contributions or other funding sources are anticipated, during a period not to exceed ten (10) years, to fully mitigate the specified impact(s) on the identified transportation facility or facilities.
 - c. When the funds in the adopted Capital Improvement Program are insufficient to fully fund a transportation improvement required by the Concurrency Management system, the City may levy a proportionate fair-share payment for an alternative improvement. The alternative improvement shall reduce the impact of the proposed development on the transportation system.
- C. Application Process. Upon notification of insufficient transportation capacity, an applicant may pursue a Proportionate Fair-Share agreement through a Development Agreement described in Chapter 2.
- D. Determining Proportionate Fair-Share Obligation.
- (1). As provided in the Florida Statutes, Proportionate Fair-Share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, land contributions, construction contributions, or transportation improvements.
 - (2). A development project is not required to pay more than its proportionate fair-share. The calculated value of the proportionate fair-share mitigation for the impacted transportation facilities shall not differ regardless of the mitigation method as provided in the Florida Statutes.
 - (3). The methodology used to calculate an applicant's proportionate fair-share obligation is calculated per Florida statute as follows:

The applicant shall calculate the proportionate-share contribution based on the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from the construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement required to maintain or achieve the adopted level of service.

The following formula expresses this methodology:

$$\text{Proportionate Fair-Share} = Y \left[\left(\frac{\text{Development Trips } i}{\text{SV Increase } i} \right) \text{Cost } i \right]$$

Where:

Y = Sum of all deficient links proposed for proportionate fair-share mitigation for a project.

Development Trips i = those trips from the stage or phase of development under review assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system.

SV Increase i = Service volume increase provided by the eligible improvement to roadway segment "i."

Cost i = Adjusted cost of the improvement to segment "i." Cost shall consist of all improvements and associated costs, including design, right-of-way acquisition, planning, engineering, inspection, and physical development costs, directly associated with construction at the anticipated cost in the year that construction will occur.

- (4). To determine Proportionate Fair-Share obligations, the City shall assess improvement costs based upon the actual or anticipated costs of the improvement in the year that the construction will occur based on the Capital Improvements Program or another approved method of calculation.
- (5). When the City accepts an improvement project proposed by the applicant, the City shall determine the value of the improvement based on an engineer's certified cost estimate provided by the applicant and approved by the City Manager or designee.
- (6). If the City has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the non-site-related right-of-way shall be valued by fair-market value established by an independent appraisal approved by the City and at no expense to the City. Said appraisal shall assume no approved development plan for the site.
 - a. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the City at no expense.
 - b. When the estimated value of the right-of-way dedication proposed by the applicant (based on a City-approved appraisal) is less than the City estimated total fair-share obligation for that development, the applicant must also pay the difference.
 - c. When the estimated value of the right-of-way dedication proposed by the applicant (based on a City approved appraisal) is more than the City estimated total fair-share

obligation for the development, the City will issue traffic impact fee credits for the difference.

E. Appropriation of Fair-Share Revenues

- (1). The City shall deposit the proportionate fair-share revenues in the appropriate project account for funding scheduled improvements in the City Capital Improvements Program (CIP) or as otherwise established in the proportionate fair-share agreement. Proportionate fair-share revenues may also be used as the fifty percent (50%) local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).
- (2). If the City removes a scheduled facility improvement from the Capital Improvement Program, the levied proportionate Fair-Share revenues may apply to alternative improvements within that same corridor or area. The alternative improvement shall still mitigate the impacts of the development project on the congested roadway(s) for the original proportionate fair-share contribution.
- (3). Where an applicant constructs a transportation facility that exceeds the applicant's proportionate fair-share obligation, the City shall reimburse the applicant for the excess contribution using impact fee credits. These credits will not be transferable as outlined in this section. Where excess contributions exceed impact fee credits, the City may reimburse such funds in cash or through other methods acceptable to the applicant and City.

ARTICLE IV – TRANSFER OF DEVELOPMENT RIGHTS

Section 1.4.1. Purpose and Intent

- A. The City Commission intends to encourage the dedication of privately owned land indicated as environmentally sensitive and conservation areas by authorizing the transfer of development rights to other properties in the City where development at increased density is appropriate.
- B. This Article's purpose is to create a system of land management and development regulations to protect, enhance, and preserve environmentally sensitive land and achieve the Comprehensive Plan's conservation goals and policies. The City shall offer land owners within this area a development alternative to on-site development whereby they can secure a beneficial use of their property through off-site development without the expense and cumulative environmental degradation of on-site development.

Section 1.4.2. Legal Concept

Transfer of development rights (TDR) is a voluntary, market-driven growth management tool that permits higher intensity development in designated "receiving" areas in exchange for land or resource preservation in designated "sending" sites. Under TDR, a jurisdiction establishes baseline development rights for sending and receiving areas. To exceed these baseline development limits, owners in the receiving districts must purchase unused development rights from owners in the sending districts.

Section 1.4.3. Sending and Receiving Zones

- A. Sending Zone. Sending Zones shall include all properties depicted on the adopted Future Land Use Map as Conservation or Zoning Map as Environmental Conservation, as well as other environmentally sensitive areas, as defined in the Appendix.
- B. Receiving Zone. Receiving Zones shall include all properties zoned Village or Activity Center as depicted on the City's adopted Zoning Map except Tracts B & C in Activity Center #3.

Section 1.4.4. Establishment and Calculation of Development Rights

- A. The following ratios establish the potential development rights. In no event shall a TDR result in a density exceeding 40 dwelling units per acre.
 - (1). Residential. One (1) development right is equivalent to the maximum number of dwelling units allowed on the sending parcel.
 - (2). Conservation. One (1) development right is equivalent to 10,000 sqft of property dedicated as conservation.
 - (3). Nonresidential. One (1) development right is equivalent to one (1) unit of density allowable by the sending parcel's zoning designation or the FAR for nonresidential development.
- B. The developer must demonstrate that:
 - (1). The transferor is the bona fide owner of the development right to be entitled to the development bonus.
 - (2). The sending parcel's development allocation has not been used to secure additional density in a previous TDR.
 - (3). The applicant has recorded an instrument of conveyance to document the TDR and restrict the transferor's land use to conservation.

Section 1.4.5. Procedure for Transfer of Development Rights

- A. Determination letter. The landowner or authorized representative shall submit a TDR Determination Letter Request to the department responsible for land development. The request shall determine the number of transfer units created from a parcel. Each parcel requires a separate determination letter request.

- B. Certificate. Once the TDR Determination Letter is issued, the landowner or authorized representative may seek the issuance of a TDR Certificate for all or a portion of the TDRs identified in the Determination Letter. The landowner must prepare a conservation easement, restrictive covenant, or another instrument that severs the development rights from the parcel(s) and submit it for review and approval by the department responsible for land development services and the City Attorney's office. The covenant, easement, or another instrument shall identify the entity responsible for the maintenance of the property. In no instance shall the City of North Port be deemed the sending property, granted a conservation easement on the property, or be held responsible for long-term property maintenance.
- C. Redemption. Upon receiving the TDR Certificate, the owner may sell, trade, barter, negotiate or transfer the TDRs. The grantor must execute and record a deed of transfer before a developer may use the TDRs.
- D. Tracking. The Planning and Zoning Division will identify properties on which development rights have been severed via our land management system to ensure the properties remain undeveloped in perpetuity.