

## **CHAPTER 6 –NATURAL RESOURCES**

### **ARTICLE I – IN GENERAL**

#### **Section 6.1.1. Purpose**

Through the enforcement of regulations in this Chapter, and the Context-Sensitive Site design requirements per Chapter 4 of this ULDC, these regulations aim to balance conservation and urban development by allowing for appropriate growth while safeguarding cultural resources and environmentally sensitive land, species, and habitats.

#### **Section 6.1.2. Applicability**

- A. The provisions of this Chapter apply to all development in the City, including one-and-two family, when potential archeological or historic resources, environmentally sensitive lands, habitats, and/or species that are Federally designated as Endangered, Threatened, Threatened due to Similarity of Appearance, Federal Non-Essential Experimental Population, State-designated Threatened, or State Species of Special Concern exist. These regulations are applicable to all forms of residential and commercial development, including, but not limited to, clearing and underbrush removal, construction of one-and-two family homes, multiple-unit residential dwellings, non-residential structures, and properties containing a mixture of uses. The regulations also apply to all associated improvements of road and utility infrastructure that may be needed to service this development, as well as land management activities on properties subject to habitat management plans or environmental conservation easements.
- B. Review for compliance with this Chapter is required for the following application types and any amendments thereto:
  - (1). Certificate of Zoning Compliance
  - (2). Future Land Use Map Amendments
  - (3). Master Concept Plan
  - (4). Preliminary Project Review
  - (5). Preliminary Subdivision Plat
  - (6). Rezone, Standard and Village
  - (7). Site Development and Infrastructure Plan

### **Section 6.1.3. Environmental Protection Fund**

Administrative costs, fees, and penalties collected as part of the enforcement of this Chapter shall be placed in the Environmental Protection Fund. This fund shall be used to support the operations of the Natural Resources Division of the Development Services Department and for the following purposes:

- A. Acquisition of environmentally sensitive land;
- B. Acquisition of land for sustainability projects;
- C. Planting trees in public places and maintaining trees to protect health and safety on public lands in the City.
- D. Tree education, planting, and conservation programs.

## ARTICLE II— ARCHEOLOGICAL & HISTORICAL PRESERVATION REGULATIONS

### Section 6.2.1. Generally

- A. The purpose of this Article is to protect the significant archaeological and historic resources of the City of North Port to the maximum extent practicable, by providing standards for the protection of these resources.
- B. The ULDC Administrator shall maintain a recorded copy of the Florida Master Site File form for all archaeological or historic resources in unincorporated Sarasota County and the City of North Port. Additionally, the ULDC Administrator shall maintain a series of United States Geological Survey (USGS) topographic maps upon which archaeological or historic resources recorded on the Florida Master Site File are shown, and a series of soil survey map sheets upon which archaeological sensitivity zones are shown.

### Section 6.2.2. Determination of Archeological Significance

- A. Potentially significant archeological sites include:
  - (1). Sites identified in the Comprehensive Plan;
  - (2). Sites listed in the National Register of Historic Places;
  - (3). Properties for which a Florida Master Site File exists;
  - (4). Properties listed by State of Florida Division of Historic Resources
  - (5). Any property within 15-meters (49.2 feet) of a property on which archeological field work has resulted in the discovery of artifacts, including but not limited to fragmentary stone tools, shell tools, aboriginal or historic pottery, historic glass, historic bottles, bone tools, historic building foundations, shell mounds, shell middens, sand mounds, human skeletal remains or associated burial artifacts.
- B. For the review of each application type specified in Section 6.1.2., the ULDC Administrator shall require a Phase I Cultural Resource Assessment Survey (CRAS) prepared by a professional meeting the [Professional Qualification Standards](#) established by the National Park Service (previously published Code of Federal Regulations, 36 CFR Part 61).
  - (1). The research design for a site assessment survey shall be reviewed and approved by the ULDC Administrator before the survey commences.
  - (2). The survey shall be designed to locate all historic resources and assess their significance. At a minimum, site assessment surveys must contain the following sections:
    - a. Project scope;
    - b. Archival research;
    - c. Research design;
    - d. Fieldwork;
    - e. Analysis;
    - f. Conclusions;
    - g. Florida Master Site File forms.
- C. Upon the ULDC Administrator's determination that a proposed development site has no archaeological significance the project may proceed subject to compliance with all other applicable provisions of this ULDC. If the ULDC Administrator's review of a CRAS results in a determination that the proposed development site is archaeologically significant, the provisions of **Section 6.2.X. through 6.2.X** apply.

### Section 6.2.3. Archeologically Significant Sites

If the ULDC Administrator determines in review of a CRAS that a proposed development site contains or potentially contains significant archaeological resources, the site will be rated as follows. Protection regulations in Section 6.2.X. shall apply based on the site's rating.

- A. Level 1: The site meets the criterion for listing on the National Register;

B. Level 2: The CRAS indicates that the site has potential significance and recommends additional investigation and/or monitoring during construction.

**Section 6.2.4. Transfer of Development Rights**

Due to the cultural sensitivity of the archeological sites, properties determined to be archeologically significant qualify as Sending Zones for purposes of Transfer of Development Rights as provided for in Chapter 1, Article IV.

**Section 6.2.5. Archeological Protection Regulations**

Archeological site protection regulations involve a tiered approach including Avoidance of Adverse Effects, Minimization of Adverse Effects, and Mitigation.

A. **Avoidance of Adverse Effects.** The ULDC Administrator’s initial recommendation for both Level 1 and Level 2 sites shall be Avoidance of Adverse Effects.

**Table 6.2.5.1. Avoidance of Adverse Effects**

Site Rating	Tier 1	Tier 2
Level 1	<ul style="list-style-type: none"> <li>• Listing on the National Register;</li> <li>• Authorization of Transfer of Development Rights</li> <li>• Establishment of a conservation easement over the entire site;</li> <li>• Dedication of the site to the State of Florida or The Florida Anthropological Society</li> </ul>	<ul style="list-style-type: none"> <li>• Design (or redesign) the site development to avoid the Area of Potential Effect (APE);</li> <li>• Establishment of a conservation easement over the APE</li> </ul>
Level 2	<ul style="list-style-type: none"> <li>• Authorization of Transfer of Development Rights</li> <li>• Establishment of a conservation easement over the entire site;</li> <li>• If possible, dedication of the site to the State of Florida or The Florida Anthropological Society</li> </ul>	<ul style="list-style-type: none"> <li>• Design (or redesign) the site development to avoid the Area of Potential Effect (APE);</li> <li>• Establishment of a conservation easement over the APE</li> </ul>

B. **Minimization of Adverse Effects, Site Management Plan, and Mitigation.** If a property owner is unwilling to participate in an Avoidance of Adverse Effects Tier I approach or the ULDC Administrator determines a Tier II approach would result in conditions listed in (1) or (2) below and considering the significance and condition of the resource on the property execution of a Site Management Plan shall be required.

- (1) The ULDC Administrator determines that a primary structure and common residential accessory structures of a scale consistent with other one-and-two-family development in the City may not be developed in conjunction with the preservation of the resource.
- (2) The ULDC Administrator determines that, for all other development types, the site may not be redesigned at the same level of intensity in conjunction with the preservation of the resource due to flood zones, soils or topography of the site, access management constraints, or height restrictions.

C. The Site Management Plan shall be prepared by a by a professional who meets the [Professional Qualification Standards](#) established by the National Park Service, and shall be reviewed and approved prior to commencement of any site development. Site Management Plans shall include the following:

**Table 6.2.5.2. Site Management Plan**

<b>Section</b>	<b>Minimum Requirements</b>
Minimization of Adverse Effects	<ul style="list-style-type: none"> <li>• Identify site development area and Area of Potential Effect (APE);</li> <li>• Explain site design and efforts to Minimize Adverse Effects;</li> <li>• Justify resulting APE.</li> </ul>
Site Management	<ul style="list-style-type: none"> <li>• Specify construction management measures to minimize Adverse Effects and mitigate for Unavoidable Effects;</li> <li>• Describe how these measures will accomplish minimization and mitigation.</li> </ul>
Monitoring Schedule	<ul style="list-style-type: none"> <li>• Indicate inspection schedule, including frequency of site visits by a professional meeting the Professional Qualification Standards of the National Park Service;</li> <li>• Detail action plan to be initiated if previously unidentified resources are discovered;</li> <li>• Establish communication and record plan, and frequency of notification to ULDC Administrator.</li> </ul>
Data Recovery	<ul style="list-style-type: none"> <li>• Establish data recovery plan and record retention plan for literature studies, informant interviews, field survey, test excavation and artifact analysis.</li> </ul>
Mitigation	<ul style="list-style-type: none"> <li>• Describe research design or methodology;</li> <li>• Identify measures to assure preservation of significant elements of the resources disturbed;</li> <li>• Provide for agreement of voluntary transfer of artifacts to a public or nonprofit agency for curation purposes, or other preservation plan.</li> <li>• Provide for final report submission to ULDC Administrator regarding salvage, excavation, or documentary measures are employed to mitigate the project.</li> </ul>
Completion Requirements	<ul style="list-style-type: none"> <li>• Identify obligations of the property owner and the ULDC Administrator as to project close-out and issuance of certificate of completion.</li> </ul>

### **Section 6.2.6. Determination of Historical Significance, Building or Structure**

- A. Significant historical buildings or structures include City-owned:
  - (1). Buildings or structures identified in the Comprehensive Plan;
  - (2). Buildings or structures listed in the National Register of Historic Places;
  - (3). Properties for which a Florida Master Site File exists;

### **Section 6.2.7. Historic Building or Structure Alteration, Demolition or Rehabilitation or Repair**

- A. When alteration, rehabilitation, or repair of a significant historical building or structure is proposed, the City of North Port, when financially feasible, will ensure construction is consistent with The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings.
- B. When demolition is proposed, the ULDC Administrator will review the proposal and provide a recommendation to the City Commission in consideration of the following:
  - (1). The importance of the building, structure, or object to the ambience of the community or neighborhood;
  - (2). The challenge or the impossibility of reproducing such a building, structure, or object because of its design, texture, material, detail, or unique location;
  - (3). Whether the building, structure, or object is one of the last remaining examples in the state, county, or region;
  - (4). The existence of definite plans for the property's reuse if the proposed demolition is carried out, and the effects of those plans on the character of the surrounding area;
  - (5). The difficulty or the impossibility of saving the building or structure from collapse;
  - (6). Whether the building or structure can yield reasonable economic return on its value;
  - (7). Whether it would be undue economic hardship to deny the property owner the right to demolish the building or structure.
  - (8). Recommended measures for data recovery, the documentation of the architectural fabric and other pertinent historical research for any involved structures and associated features, including primary archival studies, informant interviews, measured drawings and large-scale photography, and salvage of significant features to ensure their preservation.

### **Section 6.2.8. Little Salt Springs Allowable Activities and Uses**

- A. Passive recreation.
- B. Scientific research.
- C. Structures relating to scientific research.
- D. Unpaved parking areas, rest rooms and nature trails.
- E. Elevated boardwalks.

All other activities and uses shall be prohibited on the Little Salt Springs site, unless approved by Special Exception.

### **Section 6.2.9. Warm Mineral Springs Development Buffers and Use Restrictions**

- A. No residential lot shall be located closer than 400-feet from the boundary of the Conservation future land use designation and Environmental Conservation zoning area which is applied over the Warm Mineral Springs and surrounding area.

- B. A natural resource buffer of at least 300-feet shall be established between Warm Mineral Springs and any residential lot. The usage within the said buffer shall be restricted to community and recreational uses.

**Section 6.2.10. Fortuitous Finds and Unmarked Human Burials**

The following requirements apply to all site construction, building construction, or land alteration activities:

- A. If evidence of the existence of archaeological or historic resources is discovered or observed at development sites or during development activities, all work shall cease in the area. The developer, owner, contractor, or agent thereof shall notify the ULDC Administrator within two working days. Examples of such evidence include whole or fragmentary stone tools, shell tools, aboriginal or historic pottery, historic glass, historic bottles, bone tools, historic building foundations, shell mounds, shell middens or sand mounds. The ULDC Administrator shall assess the significance of the finds within five working days of notification so as to minimize delays to development activities.
- B. If any human skeletal remains or associated burial artifacts are discovered at development sites or during development activity, all work in the area must cease and the permittee must immediately notify the North Port Police Department, the Sarasota County Coroner, and the ULDC Administrator within two working days.

## ARTICLE III – CONSERVATION RESTRICTED OVERLAY ZONE REGULATIONS

### **Section 6.3.1. Generally**

The purpose of this Article is to prevent the degradation of water quality, water quantity and aquatic and wetland-dependent wildlife in the 100-year floodplain bordering the North Myakkahatchee Creek by:

- A. Protecting the public's interest in environmentally sensitive areas from the adverse impacts of development while protecting the rights of property owners.
- B. Protecting, maintaining, and restoring the chemical, physical and biological integrity of natural habitats, such as wetlands, floodplains, and shore lands, within the conservation/restricted area.
- C. Protecting, maintaining, and restoring the chemical, physical and biological integrity of ground- and surface waters.
- D. Preventing activities which adversely impact ground- and surface waters, natural habitats and native flora and fauna.
- E. Encouraging the construction of stormwater management systems that aesthetically and functionally approximate natural systems.
- F. Protecting natural drainage systems.
- G. Minimizing runoff pollution of ground and surface waters.
- H. Minimizing erosion and sedimentation.
- I. Prohibiting certain uses which are detrimental to the Myakkahatchee Creek and Myakka River systems.
- J. Minimizing adverse impacts on the City's freshwater resources.

### **Section 6.3.2. Transfer of Development Rights**

Due to the environmental sensitivity of the Conservation Restricted Overlay Zone (CRZ), properties within the CRZ qualify as Sending Zones for purposes of Transfer of Development Rights per Chapter 1, Article IV.

### **Section 6.3.3 Protection Zones**

The Conservation Restricted Overlay Zone is divided into three (3) zones of protection as follows and as depicted in Figure 6.3.1.:

- A. Zone 1 (Zone of Maximum Restriction). The boundaries of this zone shall be the platted waterway(s) of the North Myakkahatchee Creek and Myakkahatchee Creek Bypass Canal rights-of-way and contiguous jurisdiction wetlands (per the National Wetlands Inventory Map).
- B. Zone 2 (Contiguous Protective Zone). The boundaries of this zone shall be 150-feet landward from the landward edge of Zone 1.
- C. Zone 3 (Conservation Zone). The boundaries of this zone shall be the remainder of the conservation/restricted area landward of Zone 2.

### **Section 6.3.4. Protection Zone Regulations**

#### A. Zone 1 Allowed Activities and Uses:

- (1). Scenic, historic, wildlife or scientific preserves.
- (2). Minor maintenance or repair to existing structures or improved areas.
- (3). Cleared walking trails (no structural components).
- (4). Dredge and fill only associated with an approved plan for the restoration of the creek area.
- (5). Stormwater management facilities.

All other activities and uses shall be prohibited in Zone 1, unless approved by Special Exception.

#### B. Zone 2 Allowed Activities and Uses:

- (1). All uses and activities included in Zone 1.



- (2). Educational facilities for the study of wildlife, conservation, or ecology.
- (3). Passive recreation and non-motorized recreational uses including but not limited to off-road bicycling, Bicycle Motocross (BMX) activities.
- (4). Gazebos or similar structures in conjunction with a nature trail or similar trail.
- (5). Unpaved parking facilities and rest rooms related to the construction of passive recreation areas.
- (6). Selective clearing or trimming of vegetation not listed as threatened, endangered, or of special concerns if the activity clearly will not adversely affect the integrity, water quality functions or wildlife habitat functions of the land portion of this zone.
- (7). Single-family homes, subject to the following restrictions:
- (8). Rear yard setback of fifty (50) feet from the Zone 1 boundary.
- (9). Impervious surface area shall not exceed twenty-five percent (25%) of the gross area of the lot proposed for development.
- (10). Alternative or central wastewater systems only. (See definition, Appendix).
- (11). Fill placed on the land shall not decrease the water storage capacity or alter the hydrologic regime of the zone.

All other activities and uses shall be prohibited in Zone 2, unless approved by Special Exception.

C. Zone 3 Allowed Activities and Uses:

- (1). All uses and activities included in Zone 1.
- (2). All uses and activities in Zone 2.
- (3). One-and-two-family homes on alternative wastewater systems if central sewer is not available. Note the Zone 2 single-family restrictions do not apply to Zone 3.
- (4). Non-residential (excluding industrial) and multi-family development subject to a Master Concept Plan approval per Chapter 2 of this ULDC, and in compliance with the following:
- (5). Structures and impervious surfaces shall be setback a minimum of 50-feet from the landward boundary of Zone 2.
- (6). Stormwater discharges shall include an additional level of treatment equal to 1.5 times the treatment criteria specified in the City of North Port Engineering and Design Standards, Stormwater.

All other activities and uses shall be prohibited in Zone 3, unless approved by Special Exception.

## ARTICLE IV – ENDANGERED AND THREATENED SPECIES PROTECTION REGULATIONS

### **Section 6.4.1. Generally**

- A. The purpose of this Article is to limit development related impacts on Federally-designated Endangered, Federally-designated Threatened, State-designated Threatened, and State Species of Special Concern.
- B. No development may commence until the ULDC Administrator approves the development via the appropriate review process outlined in Section 6.1.2.B. of this Chapter, and state or federal permits are obtained when required and documentation provided to the City.
- C. In the event any of the species listed in this Article that were addressed during development review are discovered during construction, construction shall cease until required approvals, avoidance measures, or state or federal permits are obtained.

**Section 6.4.2. Bird Protection Regulations**

A. Pursuant to 68A-27.003(a), Florida Administrative Code, no person shall take, possess, or sell any of the endangered or threatened bird species included in this subsection, or parts thereof or their nests, eggs, or young is permitted without proper authorization by the U.S. Fish and Wildlife Service (FWS) or the Florida Fish and Wildlife Conservation Commission (FWC) as applicable.

<b>Species</b>	<b>Federal Endangered</b>	<b>Federal Threatened</b>	<b>State Endangered</b>	<b>State Threatened</b>
<b>American Oystercatcher</b>				X
<b>Black Skimmer</b>				X
<b>Crested Caracara</b>		X		
<b>Florida Burrowing Owl</b>				X
<b>Florida Sandhill Crane</b>				X
<b>Florida Scrub-Jay</b>		X		
<b>Least Tern</b>				X
<b>Little Blue Heron</b>				X
<b>Red-cockaded Woodpecker</b>	X			X
<b>Reddish Egret</b>				X
<b>Roseate Spoonbill</b>				X
<b>Roseate Tern</b>		X		
<b>Sandhill Crane</b>				X
<b>Southeastern American Kestrel</b>				X
<b>Snail Kite</b>	X		X	X
<b>Snowy Plover</b>				X
<b>Tricolored Heron</b>				X

Additional federal protection is provided for bird species under the Migratory Bird Treaty Act and The Bald and Golden Eagle Protection Act.

B. When an environmental assessment indicates the presence of the species identified above, or they are identified by Natural Resources Division staff upon initial site inspection, the ULDC Administrator’s initial recommendation shall be avoidance of take as outlined in the FWC Species Conservation and Permitting Guidelines, Measures to Avoid Take section or as authorized by the U.S. Fish and Wildlife Service as follows:

- (1). [Beach-Nesting Birds](#) (American oystercatcher, snowy plover, black skimmer, least tern)

- (2). Crested Caracara: As authorized by U.S. Fish and Wildlife Service.
  - (3). [Florida Burrowing Owl](#)
  - (4). [Florida Sand Hill Crane](#)
  - (5). Florida Scrub Jay (FWC Guidance not available at time of this code; visit [Species Conservation Measures and Permitting Guidelines](#) to ascertain if guidelines have been published). Also see **Section 6.X.X of this ULDC.**
  - (6). Red-cockaded Woodpecker (FWC Guidance not available at time of this code; visit [Species Conservation Measures and Permitting Guidelines](#) to ascertain if guidelines have been published). Roseate Tern: As authorized by U.S. Fish and Wildlife Service.
  - (7). Snail Kite (FWC Guidance not available at time of this code; visit [Species Conservation Measures and Permitting Guidelines](#) to ascertain if guidelines have been published).
  - (8). [Southeastern American Kestrel](#)
  - (9). [Wading Birds](#) (Little Blue Heron, Reddish Egret, Roseate Spoonbill, Tricolored Heron)
- A. If the ULDC Administrator determines avoidance would result in the conditions listed in (1) or (2) below, approval will be granted subject to required federal or state permitting prior to commencing development.
- (1) The ULDC Administrator determines that a primary structure and common residential accessory structures of a scale consistent with other one-and-two-family development in the City may not be developed in conjunction with the preservation of the bird species.
  - (2) The ULDC Administrator determines, for all other development types, that the site may not be redesigned at the same level of intensity in conjunction with the preservation of the bird species due to flood zones, soils or topography of the site, access management constraints, or height restrictions.

#### **Section 6.4.3. Eastern Indigo Snake Protection Regulations**

- A. The eastern indigo snake is protected as a Threatened species by the Federal Endangered Species Act and as a Federally-designated Threatened species by Florida's Endangered and Threatened Species Rule.
- B. The eastern indigo snake is a non-venomous, bluish-black colored snake that can reach lengths of eight feet (2.4 meters). Its chin, cheek, and throat are mostly red or brown, but can also be white or black. Most indigo snakes have smooth scales, although adults do have keels (ridges) on the front of some of their scales (Florida Natural Areas Inventory 2001). Eastern indigo snakes inhabit pine flatwoods, hardwood forests, moist hammocks, and areas that surround cypress swamps. They can be found throughout Peninsular Florida and southeastern Georgia (Florida Museum of Natural History, n.d.).
- C. [U.S. Fish & Wildlife Services Standard Protection Measures for the Eastern Indigo Snake](#) shall be followed when a development site incorporates eastern indigo snake habitat.

#### **Section 6.4.4. Florida Scrub-Jay Protection Regulations**

- A. The Florida scrub-jay is protected by the U.S. Migratory Bird Treaty Act. It is also protected as a Threatened species by the Federal Endangered Species Act and as a Federally-designated Threatened species by Florida's Endangered and Threatened Species Rule.
- B. The Florida scrub-jay is a blue and gray bird about the size of a blue jay. Scrub-jays have blue wings, head, and tail, and gray back and underparts, and a whitish forehead and neck. Unlike blue jays, this species does not have black markings or a crest. The Florida scrub-jay is the only

species of bird that is endemic to Florida. Scrub-jays inhabit sand pine and xeric oak scrub, and scrubby flatwoods, which occur in some of the highest and driest areas of Florida – ancient sandy ridges that run down the middle of the state, old sand dunes along the coasts, and sandy deposits along rivers in the interior of the state. Scrub-jays do best in areas that are dominated by scrub oak species that average 3.28-6.56 feet (1-2 meters), low tree canopy density, and patchy areas of open sand. Prescribed burning is an essential element to conserving the Florida scrub-jay.

- C. **Transfer of Development Rights.** Lots included on the City of North Port’s [Identified Scrub Jay Lots](#) list qualify as Sending Zones for purposes of Transfer of Development Rights as provided for in Chapter 1, Article IV.

**6.4.4.1. Protection Regulations**

- B. Where a property is identified as a Florida scrub-jay lot, the ULDC Administrator’s initial recommendation shall be avoidance of take.

Table 6.4.4.1. Avoidance of Take

Tier 1	Tier 2
<ul style="list-style-type: none"> <li>• Authorization of Transfer of Development Rights</li> <li>• Establishment of a conservation easement over the entire site;</li> <li>• Dedication of the site to the State of Florida or non-profit nature or wildlife protection organization</li> </ul>	<ul style="list-style-type: none"> <li>• Design (or redesign) the site development to avoid or minimize the impacts to the Florida Scrub-Jay habitat;</li> <li>• U.S. Fish and Wildlife Service Project Review Under the Endangered Species Act.</li> <li>• Habitat preservation and enhancement via development approval conditions, Habitat Management Plan, or as recommended by U.S. Fish and Wildlife Service</li> </ul>

- C. If a property owner is unwilling to participate in an Avoidance of Take Tier I approach and/or the ULDC Administrator determines a Tier II approach would result in the conditions listed in (1) or (2) below, approval will be granted subject to required federal or state permitting prior to commencing development. Notwithstanding the foregoing, the City of North Port shall not authorize land clearing or underbrush clearing activities during the Florida Scrub-Jay nesting season (March 1 through June 30).

(3) The ULDC Administrator determines that a primary structure and common residential accessory structures of a scale consistent with other one-and-two-family development in the City may not be developed in conjunction with the preservation of the scrub-jay/scrub-jay habitat.

(4) The ULDC Administrator determines, for all other development types, that the site may not be redesigned at the same level of intensity in conjunction with the preservation of the scrub-jay/scrub-jay habitat due to flood zones, soils or topography of the site, access management constraints, or height restrictions.

**Section 6.4.5. Gopher Tortoise Protection Regulations**

- A. The gopher tortoise is a listed State-designated Threatened species. Both the tortoise and its burrow are protected under state law (Chapter 68A-2, Florida Administrative Code). Gopher tortoises must be avoided or relocated before any land clearing or development takes place, and property owners must obtain permits from Florida Fish and Wildlife Conservation Commission (FWC) before capturing and relocating tortoises.
- B. Gopher tortoises are long-lived reptiles that occupy upland habitat throughout Florida including forests, pastures, and yards. They prefer well-drained, sandy soils found in habitats such as longleaf pine sandhills, xeric oak hammocks, scrub, pine flatwoods, dry prairies, and coastal dunes. They are also found in a variety of disturbed habitats including pastures and urban areas. They dig deep burrows for shelter and forage on low-growing plants. Keystone species providing habitat and shelter for numerous other species.
- C. **Transfer of Development Rights.** Properties exhibiting gopher tortoise habitat characteristics and those with existing occupied or unoccupied burrows qualify as Sending Zones for purposes of Transfer of Development Rights as provided for in Chapter 1, Article IV.

**6.5.4.1. Protection Regulations**

- A. If an environmental assessment required by Chapter 2 of this ULDC reflects the presence of gopher tortoise burrows, a resurvey shall be required within 90-days of development commencement including land or underbrush clearing. Environmental assessments are generally not required for General Development Corporation platted lots, however, if Natural Resources Division staff identify a burrow upon initial site inspection, the ULDC Administrator may require an environmental assessment.
- B. When an environmental assessment indicates the presence gopher tortoise burrows, or they are identified by Natural Resources Division staff or other professional identifies a potentially occupied gopher tortoise upon initial site inspection, the ULDC Administrator’s initial recommendation shall be avoidance.

**Table 5.4.5.1. Avoidance of Take**

Tier 1	Tier 2
<ul style="list-style-type: none"> <li>• Authorization of Transfer of Development Rights</li> <li>• Establishment of a conservation easement over the entire site;</li> <li>• Dedication of the site to the State of Florida or non-profit nature or wildlife protection organization</li> </ul>	<ul style="list-style-type: none"> <li>• Design (or redesign) the site development to avoid gopher tortoise burrows and incorporation of protection measures per paragraph C. below.</li> </ul>

- C. If the site can be designed or redesigned to provide for gopher tortoise burrow preservation, an FWC permit is not required provided burrows whether on or offsite, are avoided by 25-feet in all directions. When a development project proposes preservation of burrows, exclusionary silt fencing shall be required as follows and shall be maintained throughout all phases of construction:

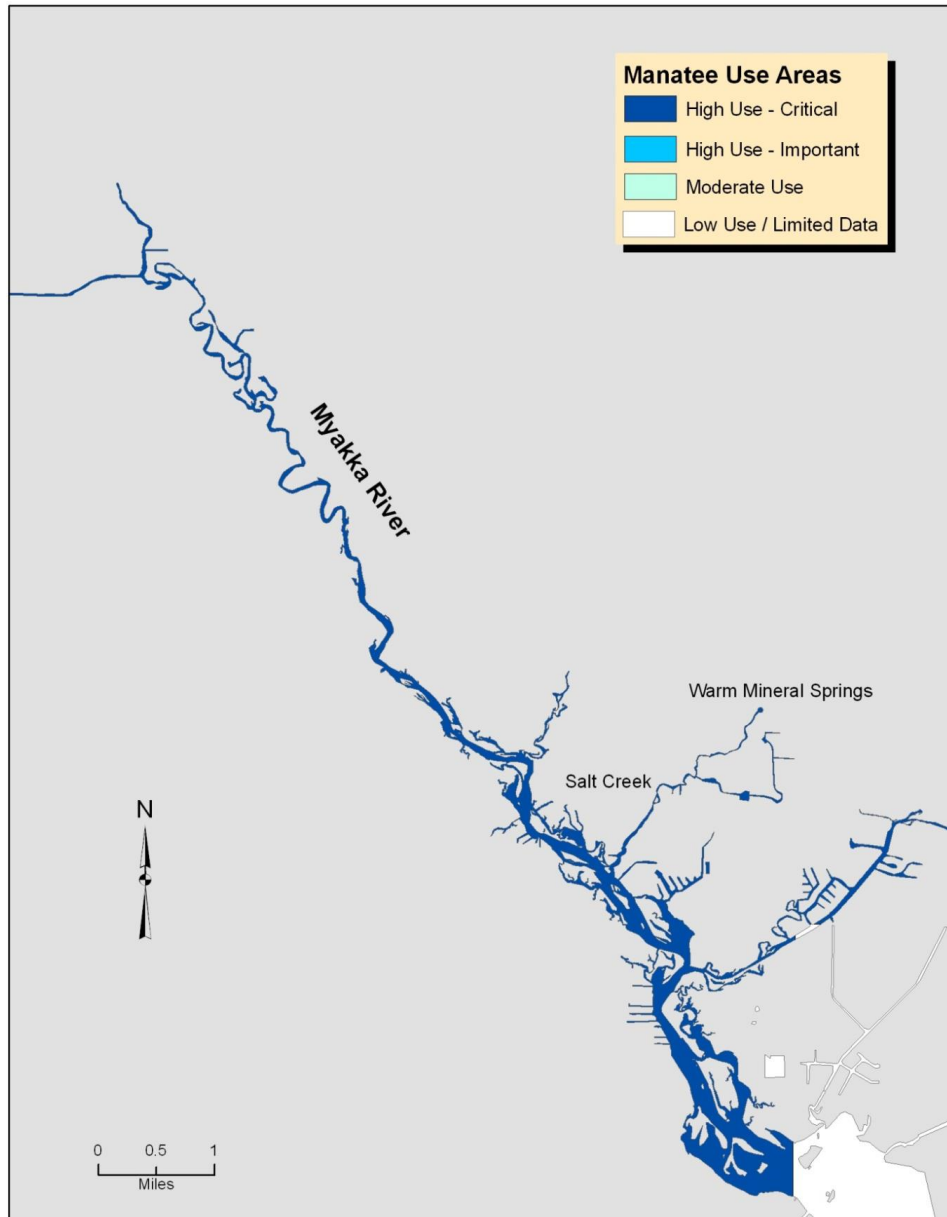
- (1). Installed, trenched and taut, and buried at least 8-inches into the ground:
  - (2). Configuration shall not "pen" tortoises, nor trap tortoises between silt fence and any adjacent construction site fencing. It should allow the opportunity for tortoise movement but prevent tortoises from entering the construction zone.
  - (3). All avoidance procedural practices shall meet all state and federal criteria.
- D. If the ULDC Administrator determines avoidance would result in the conditions listed in (1) or (2) below, approval will be granted subject to required federal or state permitting prior to commencing development.
- (1) The ULDC Administrator determines that a primary structure and common residential accessory structures of a scale consistent with other one-and-two-family development in the City may not be developed in conjunction with the preservation of the gopher tortoise(s).
  - (2) The ULDC Administrator determines, for all other development types, that the site may not be redesigned at the same level of intensity in conjunction with the preservation of the gopher tortoise(s) due to flood zones, soils or topography of the site, access management constraints, or height restrictions.

## Section 6.4.6. Manatee Protection Regulations

### 6.4.6.1. Generally

- A. The manatee is protected under federal law by the Marine Mammal Protection Act of 1972 and by the Endangered Species Act of 1973, which makes it illegal to harass, hunt, capture or kill any marine mammal. The manatee is also protected by the Florida Manatee Sanctuary Act of 1978, which states: "It is unlawful for any person, at any time, intentionally or negligently, to annoy, molest, harass, or disturb any manatee."
- B. The provisions of these regulations shall be applicable in waterways in the City of North Port shown on Figure 6.4.6.1.

Figure 6.4.6.1. Manatee Use Areas (Sarasota County 2011 Manatee Protection Plan)





#### **6.4.6.2. Protection Regulations**

- A. Construction and/or expansion of a boat facility representing an increase of 5 slips or greater shall be compliant with the Sarasota County Manatee Protection Plan (MPP) adopted July 27, 2011, as may be amended. Boat facility means a public or private structure or operation where boats are moored and/or launched, including commercial, recreational, and residential marinas, and public boat ramps. A dry storage facility is considered part of a boat facility if the dry storage facility has the capability of launching vessels into adjacent waters. Single-family docks with less than five wet slips are not considered boat facilities.
- B. Upon receipt of an application for a boat facility meeting the criteria in paragraph A., the ULDC Administrator will transmit the application to Sarasota County staff to obtain initial comments for consistency with the MPP.
- C. If a boat facility development proposal is found to be inconsistent with the MPP the development proposal shall not be authorized unless a variance is granted by the Zoning Hearing Officer.

#### **6.4.6.3. Variances**

The Zoning Hearing Officer may grant a variance to approving a development proposal for a boat facility that is inconsistent with the provisions of the MPP. In review of such variance request, the Zoning Hearing Officer will consider recommendations from Sarasota County staff, recommendations, if any, from the Southwest Florida Water Management District, Florida Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission, and the standard variance criteria per Chapter 2 of this ULDC.

### Section 6.4.7. Plants & Lichens Protection Regulations

When an environmental assessment indicates the presence of the following species, or they are identified by Natural Resources Division staff upon initial site inspection, every effort shall be made to modify the development plan to avoid and preserve the communities. Where impacts may not be avoided, the ULDC Administrator shall encourage the participation of a qualifying non-profit organization to obtain a permit to harvest and propagate the endangered or threatened native flora according to Florida Statutes 581.185. In the event a qualifying non-profit is engaged, the property shall provide written permission authorizing access to the property for harvesting.

<b>Species</b>	<b>Federal Endangered</b>	<b>Federal Threatened</b>	<b>State Endangered</b>	<b>State Threatened</b>
<b>Golden leather fern</b>				X
<b>Meadow jointvetch</b>			X	
<b>Florida bonamia</b>		X	X	
<b>Manyflowered grasspink</b>				X
<b>Pygmy fringetree</b>	X		X	
<b>Sanibel Island lovegrass</b>			X	
<b>Tampa vervain</b>			X	
<b>Aboriginal prickly apple</b>	X		X	
<b>Edison's ascyrum</b>			X	
<b>Gulf Coast Florida lantana</b>			X	
<b>Nodding pinweed</b>				X
<b>Pine pinweed</b>				X
<b>Lowland loosestrife</b>				X
<b>Toothed maiden fern</b>				X
<b>Florida Keys ladiestresses</b>			X	
<b>Piedmont jointgrass</b>				X
<b>Sleeping Beauty waterlily</b>			X	
<b>Large-plumed beaksedge</b>			X	
<b>Redmargin zephyrlily</b>				X

## ARTICLE V – FLOOD DAMAGE PREVENTION REGULATIONS

### **Section 6.5.1. Scope and Administration**

#### **6.5.1.1 Title.**

These regulations shall be known as the Flood Damage Prevention Regulations of the City of North Port, hereinafter referred to as "this ordinance."

#### **6.5.1.2. Scope.**

The provisions of this ordinance 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.

#### **6.5.1.3. Intent.**

The purposes of this ordinance 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:

- A. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- B. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- C. 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;
- D. 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;
- E. Minimize damage to public and private facilities and utilities;
- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- G. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- H. 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.

#### **6.5.1.4. Coordination with the Florida Building Code.**

This ordinance 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.

#### **6.5.1.5. Warning.**

The degree of flood protection required by this ordinance 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 ordinance 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 guaranty of vested use, existing use, or future use is implied or expressed by compliance with this ordinance.

#### **6.5.1.6. Disclaimer of Liability.**

This ordinance shall not create liability on the part of the City Commission of the City of North Port or by any officer or employee thereof for any flood damage that results from reliance on this ordinance, or any administrative decision lawfully made thereunder.

### **Section 6.5.2. Applicability**

#### **6.5.2.1. Generally.**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

#### **6.5.2.2. Areas to Which this Ordinance Applies.**

This ordinance shall apply to all flood hazard areas within the City of North Port, as established in Section 6.5.2., Subsection 6.5.3. of this ordinance.

#### **6.5.2.3. Basis for Establishing Flood Hazard Areas.**

The Flood Insurance Study for Sarasota County, Florida and Incorporated Areas dated March 27, 2024, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions, are adopted by reference as a part of this ordinance 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 Department of Public Works located at 1100 N. Chamberlain Blvd., North Port FL, 34286 and on the City of North Port website.

#### **6.5.2.4. Submission of Additional Data to Establish Flood Hazard Areas.**

To establish flood hazard areas and base flood elevations, pursuant to Section 6.5.5. of this ordinance 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 community indicates that ground elevations:

- A. Are below the closest applicable base flood elevation, including areas immediately adjacent to areas delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this ordinance and, as applicable, the requirements of the Florida Building Code.
- B. 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.

**6.5.2.5. Other Laws.**

The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

**6.5.2.6. Abrogation and Greater Restrictions.**

This ordinance supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any 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 this ordinance and any other ordinance, the more restrictive shall govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.

**6.5.2.7. Interpretation.**

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

**Section 6.5.3. Duties and Powers of the Floodplain Administrator**

**6.5.3.1. Designation.**

The Building Official or designee is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

**6.5.3.2. Generally.**

The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this ordinance. The Floodplain Administrator shall have the authority to render interpretations of this ordinance consistent with the intent and purpose of this ordinance 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 ordinance without the granting of a variance pursuant to Section 6.5.7. of this ordinance.

#### **6.5.3.4. Applications and permits.**

The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

- A. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- B. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this ordinance;
- C. 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;
- D. Provide available flood elevation and flood hazard information;
- E. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- F. Review applications to determine whether proposed development will be reasonably safe from flooding;
- G. 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 ordinance is demonstrated, or disapprove the same in the event of noncompliance; and
- H. 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 ordinance.

#### **6.5.3.5. Substantial Improvement 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:

- A. 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 any repairs are made;
- B. 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;
- C. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

- D. 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 ordinance is required.

**6.5.3.6. 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 6.5.7. of this ordinance.

**6.5.3.7. 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 ordinance.

**6.5.3.8. Inspections.**

The Floodplain Administrator shall make the required inspections as specified in Section 6.5.6. of this ordinance 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.

**6.5.3.9. Other Duties of the Floodplain Administrator.**

The Floodplain Administrator shall have other duties, including but not limited to:

- A. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 6.5.3., Subsection 6.5.3.5. of this ordinance;
- B. 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 (6) months of such data becoming available;
- C. Review required design certifications and documentation of elevations specified by the Florida Building Code and this ordinance to determine that such certifications and documentations are complete;
- D. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of North Port are modified;
- E. 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);
- F. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

- G. Manage the activities associated with the Insurance Services Office—Community Rating System program and Local Mitigation Strategy program and maintain all records accordingly.
- H. For projects that are required to be reviewed through the site development review (SDR) process, determine if any portion of the development is within the special flood hazard area.
- I. For projects with proposed floodplain impact, require floodplain compensation pursuant to Section 6.5.11., Subsection 6.5.11.4. of this ordinance and the requirements in the City of North Port Engineering Design Standards, Stormwater Regulation.
- J. Manage flood reduction projects and water control structure rehabilitation or replacement.
- K. Review all requests for letter of map changes (LOMCs).
- L. Review proposed plats for flood zone designation.

#### **6.5.3.10. Floodplain Management Records.**

Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain, retain, and make available for public inspection all records that are necessary for the administration of this ordinance 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 ordinance; 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 ordinance and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at City of North Port Neighborhood Development Services Division, Building Department located at 4970 City Hall Blvd., North Port FL, 34288.

### **Section 6.5.4. Permits**

#### **6.5.4.1. Permits Required.**

Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this ordinance, 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 ordinance and all other applicable codes and regulations has been satisfied.

#### **6.5.4.2. Myakka River Protection Zone.**

Development proposed in the Myakka River Protection Zone (MRPZ) shall also comply with the requirements of Chapter 6, Article VIII of this ULDC.



#### **6.5.4.3. Development Orders and/or Building Permits.**

Development orders (for subdivision projects) and/or building permits (for all projects) shall be issued pursuant to this ordinance for any development activities, whether they are or are not subject to the conditions of 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 Development Order is required in addition to a building permit. All development orders and approvals shall adhere to the requirements included in this ULDC.

#### **6.5.4.4. 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), a development order shall be required for the following buildings, structures and facilities that are otherwise exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this ordinance:

- A. Railroads and ancillary facilities associated with the railroad.
- B. Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- C. Temporary buildings or sheds used exclusively for construction purposes.
- D. Mobile or modular structures used as temporary offices.
- E. Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- F. 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.
- G. Family mausoleums not exceeding two hundred fifty (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.
- H. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- I. Structures identified in section 553.73(10)(k), F.S., are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on flood insurance rate maps.

#### **6.5.4.5. Application for a Permit or Approval.**

To obtain a building permit (or development order), the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

- A. Identify and describe the development to be covered by the permit or approval.
- B. 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.
- C. Indicate the use and occupancy for which the proposed development is intended.
- D. Be accompanied by a site plan or construction documents as specified in Section 6.5.5. of this ordinance.
- E. State the valuation of the proposed work.
- F. Be signed by the applicant or the applicant's authorized agent.

G. Give such other data and information as required by the Floodplain Administrator.

**6.5.4.6. Validity of Permit or Approval.**

The issuance of a development order and/or building permit pursuant to this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance, the Florida Building Codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

**6.5.4.7. Expiration.**

A development order and/or building permit shall become invalid unless the work authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized is suspended or abandoned for a period of one hundred eighty (180) days after the work commences. Extensions for periods of not more than one hundred eighty (180) days each shall be requested in writing and justifiable cause shall be demonstrated.

**6.5.4.8. Suspension or Revocation.**

The Building Official is authorized to suspend or revoke a development order and/or building permit if the permit was issued in error, on the basis of incorrect, inaccurate, or incomplete information, or in violation of this ordinance or any other ordinance, regulation or requirement of this community.

**6.5.4.9. Other Permits Required.**

Development orders and/or building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- A. The Southwest Florida Water Management District; section 373.036, F.S.
- B. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- C. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- D. 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.
- E. Federal permits and approvals.

**Section 6.5.5. Site Plans and Construction Documents**

**6.5.5.1. Information for Development in Flood Hazard Areas.**

- A. The site plan or construction documents for any development subject to the requirements of this ordinance shall be drawn to scale and shall include, as applicable to the proposed development:

- (1). Delineation of flood hazard areas, floodway boundaries and 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 6.5.5. Subsection 6.5.5.2.A. or C. of this ordinance.
- (3). Where the parcel on which the proposed development will take place will have more than fifty (50) lots or is larger than five (5) acres and the base flood elevations are not included on the FIRM or in the flood insurance study, such elevations shall be established in accordance with Section 6.5.5., Subsection 6.5.5.1.A. of this ordinance.
- (4). Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
- (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). For all on a parcel that has any portion of the parcel impacted by the special flood hazard area, an elevation certificate signed and sealed by a Florida licensed surveyor will be required for the construction. The lowest floor of the building must be raised above the base flood elevation in accordance with the Florida Building Code.
- (8). Existing and proposed alignment of any proposed alteration of a watercourse.

- B. The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this ordinance but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this ordinance.

**6.5.5.2. 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:

- A. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- B. 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.

- C. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding or existing site conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
  - (1). Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
  - (2). Specify that the base flood elevation is a minimum of two (2) feet above the highest adjacent grade at the proposed structure, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
- D. 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.

#### **6.5.5.3. 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:

- A. For development activities proposed to be located in a regulatory floodway, 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 analysis to the Floodplain Administrator and FEMA as specified in Section 6.5.5., Subsection 6.5.5.4. of this ordinance and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.
- B. 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 or 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 more than one-tenth of one foot (0.1 feet) 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 AO or Zone AH.
- C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the 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 6.5.5., Subsection 6.5.5.4. of this ordinance.

#### **6.5.5.4. Submission of Additional Data.**

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to 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.

### **Section 6.5.6. Inspections**

#### **6.5.6.1. Generally.**

Development for which a floodplain development permit or approval is required shall be subject to inspection.

#### **6.5.6.2. Development Other than Buildings and Structures.**

The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

#### **6.5.6.3. 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 ordinance and the conditions of issued floodplain development permits or approvals.

#### **6.5.6.4. 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:

- A. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- B. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 6.5.5., Subsection 6.5.5.2.C.(2). of this ordinance, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

#### **6.5.6.5. 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 Building Official 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 6.5.6., Subsection 6.5.6.4. of this ordinance.

#### **6.5.6.5. Manufactured Homes.**

The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this ordinance 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.

### **Section 6.5.7. Variances and Appeals**

#### **6.5.7.1. Generally.**

The Zoning Hearing Officer shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to section 553.73(5), F.S., the Zoning Hearing Officer 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.

#### **6.5.7.2. Appeals.**

The Zoning Hearing Officer shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this ordinance. Any person aggrieved by the decision of the Hearing Officer may appeal such decision to the Circuit Court, as provided by Florida Statutes.

#### **6.5.7.3. Limitations on Authority to Grant Variances.**

The Zoning Hearing Officer shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 6.5.7., Subsection 6.5.7.7. of this ordinance, the conditions of issuance set forth in Section 6.5.7., Subsection 6.5.7.8. of this ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Zoning Hearing Officer has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

#### **6.5.7.4. 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 6.5.5., Subsection 6.5.5.3. of this ordinance.

#### **6.5.7.5. 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 proposed 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.

#### **6.5.7.6. 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 ordinance, provided the variance meets the requirements of Section 6.5.7., Subsection 6.5.7.4., 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.

#### **6.5.7.7. Considerations for Issuance of Variances.**

In reviewing requests for variances, the Zoning Hearing Officer shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this ordinance, and the following:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- D. The importance of the services provided by the proposed development to the community;
- E. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- F. The compatibility of the proposed development with existing and anticipated development;
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- H. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- I. 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
- J. 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.

#### **6.5.7.8. Conditions for Issuance of Variances.**

Variances shall be issued only upon:

- A. 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 ordinance or the required elevation standards;
- B. Determination by the Zoning Hearing Officer that:
  - (1). 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;

- (2). 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; The variance is the minimum necessary, considering the flood hazard, to afford relief;
- C. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
- D. 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 twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

## **Section 6.5.8. Violations.**

### **6.5.8.1 Violations.**

Any development that is not within the scope of the Florida Building Code but that is regulated by this ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this ordinance, or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

### **6.5.8.2. Authority.**

For development that is not within the scope of the Florida Building Code but that is regulated by this ordinance 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.

### **6.5.8.3. Unlawful Continuance.**

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by the procedures set forth in the City of North Port Code, Section 2, Administration, Article IX, Code Enforcement, adopted June 18, 1990 as may be amended from time to time, unless otherwise indicated.

## **Section 6.5.9. Buildings and Structures**

### **6.5.9.1. Design and Construction of Buildings, Structures, and Facilities.**

- A. Buildings, structures, and facilities exempt from the Florida Building Code. Pursuant to Section 6.5.4., Subsection 6.5.4.4. of this ordinance, 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 must comply with the requirements of Section 6.5.15. of this ordinance.

- B. Non-elevated accessory structures. Accessory structures are permitted below elevations required by the Florida Building Code, 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 six hundred (600) square feet and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential;
  - (2).Are anchored to resist flotation, collapse, or lateral movement resulting from flood loads;
  - (3).Use flood damage-resistant materials below the base flood elevation, plus one (1) foot; and
  - (4).Have mechanical, plumbing, and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

## **Section 6.5.10. Subdivisions**

### **6.5.10.1. Minimum Requirements.**

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- B. 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
- C. 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.

### **6.5.10.2. 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:

- A. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
- B. Where the subdivision has more than fifty (50) lots or is larger than five (5) acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 6.5.5.A. of this ordinance; and

- C. Compliance with the site improvement and utilities requirements of Section 6.5.11. of this ordinance.

## **Section 6.5.11. Site Improvements, Utilities, and Limitations**

### **6.5.11.1. Minimum Requirements.**

All proposed new development shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- B. 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
- C. 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.

### **6.5.11.2. 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.

### **6.5.11.3. 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.

### **6.5.11.4. Floodplain Compensation.**

Floodplain compensation as specified in the City of North Port Engineering Design Standards, Stormwater Regulations or by the Southwest Florida Water Management District shall be required for all sites that are required to obtain an environmental resource permit issued by Southwest Florida Water Management District (SWFWMD) or Florida Department of Environmental Protection (FDEP). Floodplain compensation storage is not required for a single-family General Development Corporation platted lot.

### **6.5.11.5. Limitations on Sites in Regulatory Floodways.**

No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 6.5.5., Subsection 6.5.5.3.A. of this ordinance demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

**6.5.11.6. Limitations on Placement of Fill.**

Subject to the limitations of this ordinance, 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.

**6.5.11.7. Limitations for Streams without Established Base Flood Elevations and/or Floodways.**

No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to five (5) times the width of the stream at the top of bank or twenty (20) feet on each side from top of bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**Section 6.5.12. Manufactured Homes**

**6.5.12.1. Generally.**

All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S. and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this ordinance.

**6.5.12.2. Limitations on Installation in Floodways.**

New installations of manufactured homes shall not be permitted in floodways except in existing manufactured home parks and subdivisions, and provided the foundation, anchoring and elevation requirements of Section 6.5.12. are met.

**6.5.12.3. Foundations.**

All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code residential section R322.2 and this ordinance. Pilings shall be installed in stable soil no more than ten (10) feet apart and reinforcement shall be provided for pilings more than six (6) feet above ground level.

**6.5.12.4. 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.

**6.5.12.5. Elevation.**

All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas must be elevated to ensure 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 R3222.2 (Zone A).

#### **6.5.12.6. Enclosures.**

Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas.

#### **6.5.12.7. 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.

### **Section 6.5.13. Recreational Vehicles and Park Trailers**

#### **6.5.13.1. Temporary placement.**

Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

- A. Be on the site for fewer than one hundred eighty (180) consecutive days; or
- B. 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.

#### **6.5.13.2. Permanent placement.**

Recreational vehicles and park trailers that do not meet the limitations in Section 6.5.13., Subsection 6.5.13.1. of this ordinance for temporary placement shall meet the requirements Section 6.5.12. of this ordinance for manufactured homes.

### **Section 6.5.14. Tanks**

#### **6.5.14.1. 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.

#### **6.5.14.2. Above-Ground Tanks, Not Elevated.**

Above-ground tanks that do not meet the elevation requirements of Section 6.5.14., Subsection 6.5.14.3. of this ordinance shall be permitted in flood 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.

#### **6.5.14.3. 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.

#### **6.5.14.4. Tank Inlets and Vents.**

Tank inlets, fill openings, outlets and vents shall be:

- A. 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
- B. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

### **Section 6.5.15. Other Development**

#### **6.5.15.1. 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 ordinance or the Florida Building Code, shall:

- A. Be located and constructed to minimize flood damage;
- B. Meet the limitations of Section 6.5.11., Subsection 6.5.11.5. of this ordinance if located in a regulated floodway;
- C. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- D. Be constructed of flood damage-resistant materials; and
- E. Have mechanical, plumbing, and electrical systems above the design flood elevation, 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.

#### **6.5.15.2. 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 6.5.11., Subsection 6.5.11.5. of this ordinance.

#### **6.5.15.3. 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 6.5.11., Subsection 6.5.11.5. of this ordinance.

#### **6.5.15.4. 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 6.5.11., Subsection 6.5.11.5. of this ordinance. Alteration of a watercourse that is part of a road or

watercourse crossing shall meet the requirements of Section 6.5.5., Subsection 6.5.5.3.C. of this ordinance.

## **Section 6.5.16. Definitions**

### **6.5.16.1. Scope.**

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this ordinance, have the meanings shown in this section.

### **6.5.16.2. Terms Defined in the Florida Building Code.**

Where terms are not defined in this ordinance and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

### **6.5.16.3. Terms Not Defined in the Florida Building Code.**

Where terms are not defined in this ordinance or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

**Accessory structure.** A structure on the same parcel of property as a principal structure and the use of which is limited to parking and storage incidental to the use of the principal structure.

**Appeal.** A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

**ASCE 24.** A standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

**Base flood.** A flood having a one-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

**Base flood elevation.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). [Also defined in FBC, B, Section 202.]

**Basement.** The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202.]

**Design flood.** The flood associated with the greater of the following two (2) areas: [Also defined in FBC, B, Section 202.]

1. Area with a floodplain subject to a one-percent or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two (2) feet. [Also defined in FBC, B, Section 202.]

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any structure for which the "start of construction" commenced before September 2, 1981, in areas of the City east of the Myakka River and before July 30, 1971 for all areas of the City west of the Myakka River. [Also defined in FBC, B, Section 202.]

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

Flood hazard area. The greater of the following two (2) areas: [Also defined in FBC, B, Section 202.]

1. The area within a floodplain subject to a one percent (1%) or greater chance of flooding in any year.
2. The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood insurance rate map (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

Flood insurance study (FIS). The official report provided by the Federal Emergency Management Agency that contains the flood insurance rate map, the flood boundary and floodway map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of this ordinance (may be referred to as the Floodplain Manager).

Floodway. The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 202.]

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Florida Building Code. The family of codes adopted by the Florida Building Commission, including Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12, Historic Buildings.

Letter of map change (LOMC). An official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

1. Letter of map amendment (LOMA). An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
2. Letter of map revision (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
3. Letter of map revision based on fill (LOMR-F). A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill



must have been permitted and placed in accordance with the community's floodplain management regulations.

4. Conditional letter of map revision (CLOMR). A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at eight thousand five hundred (8,500) pounds gross vehicular weight rating or less which has a vehicular curb weight of six thousand (6,000) pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or
2. Designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or
3. Available with special features enabling off-street or off-highway operation and use.

Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 202.]

Manufactured home. A structure, transportable in one (1) or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Market value. The value of buildings and structures, excluding the land and other improvements on the parcel. Market value is the actual cash value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New construction. For the purposes of administration of this ordinance and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after September 2, 1981, for properties located east of the Myakka River and on or after July 30, 1971 for properties located west of the Myakka River and includes any subsequent improvements to such structures.

Recreational vehicle. A vehicle, including a park trailer, which is: [see in section 320.01, F.S.)

1. Built on a single chassis;
2. 2.Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. 3.Designed to be self-propelled or permanently towable by a light-duty truck; and  
Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area. Special flood hazard areas are shown on FIRMs as Zone A, AO, AR, A1-A30, AE, A99, AH, V1-V30, VE, VO, or V. [Also defined in FBC, B Section 202.]

Start of construction. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within one hundred eighty (180) days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 202.]

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 202.]

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds fifty (50) percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

4. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assure safe living conditions.
5. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Trailer, park. A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

Variance. A grant of relief from the requirements of this ordinance, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this ordinance or the Florida Building Code.

Watercourse. Any natural or artificial channel, ditch, canal, stream, river, creek, waterway, or wetland through which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, banks, or other discernable boundary. Watercourse shall not include irrigation and drainage ditches constructed in the uplands which are not more than thirty-five (35) square feet in total cross section area and normally has a water depth of no more than three (3) feet; provided they are not in and do not directly connect to Outstanding Florida Waters, Class I Waters, and Class II Waters.

Watercourse, alteration of. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

## ARTICLE VI - MYAKKA RIVER PROTECTION ZONE REGULATIONS

### **Section 6.6.1. Generally**

- A. The purpose of this Section is to ensure compliance with the Myakka River Wild and Scenic Designation and Preservation Act (the "Act") Chapter 258, Part III, Florida Statutes and the November 13, 2007, Commission adopted a State-local agreement (the "Agreement") regarding administrating rules and regulations in accordance with the Act.
- B. The Act designates a corridor between River Mile seven and one-half (7.5) and River Mile forty-one and one-half (41.5) of the Myakka River as a Florida Wild and Scenic River. This portion of the Myakka River is more commonly referred to as that stretch from State Road 780 in Sarasota County to the Sarasota-Charlotte County line. The Act describes the "Wild and Scenic Protection Zone" as the area which extends two hundred twenty (220) feet landward from the Myakka River Area.
- C. The provisions of this chapter shall be applicable within the 220-foot-wide Myakka River Protection Zone and are not applicable to upland cut man-made canals or tributaries.

### **Section 6.6.2. Transfer of Development Rights**

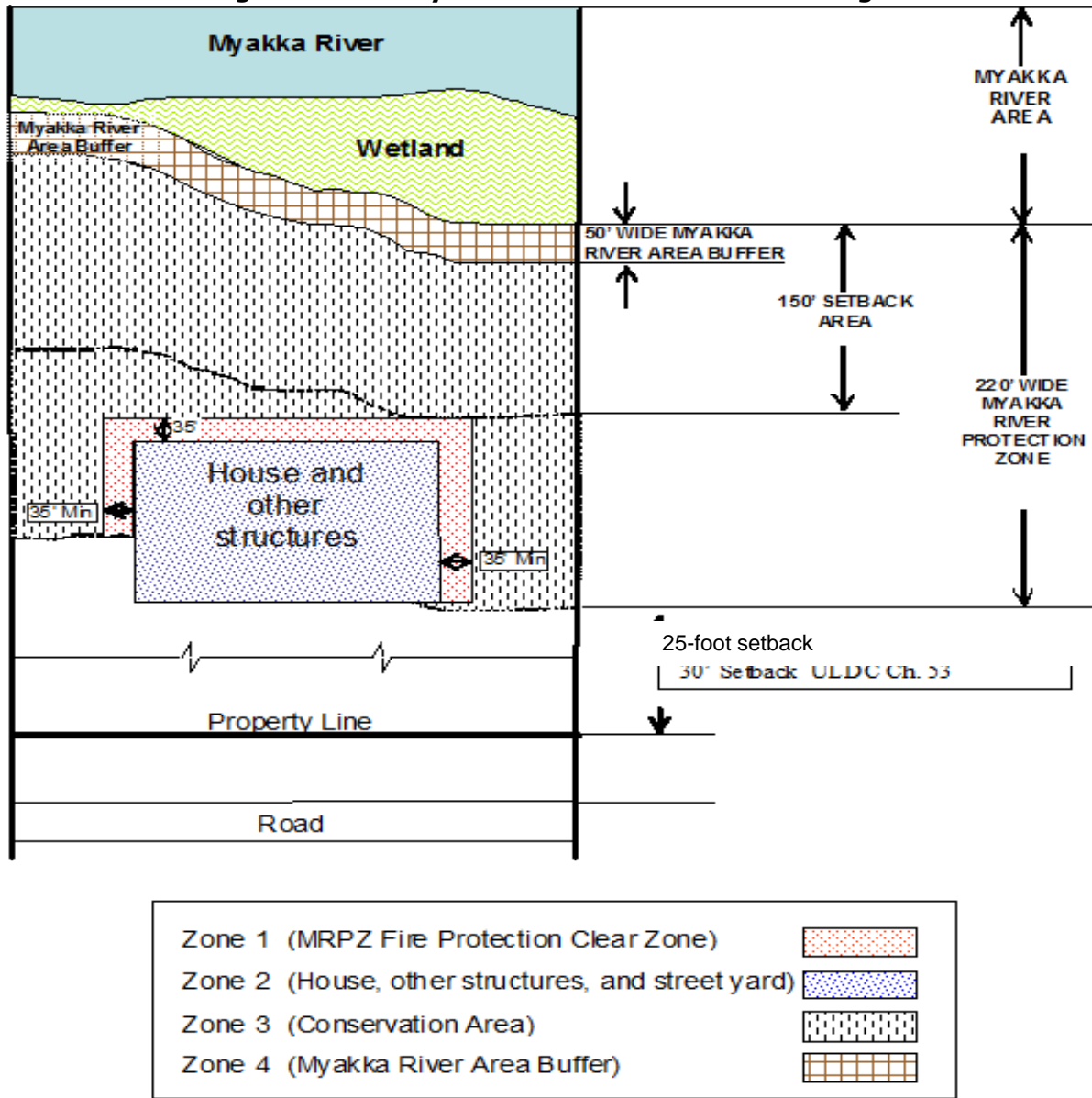
Due to the environmental sensitivity of the Myakka River Protection Zone (MRPZ), properties within the MRZP qualify as Sending Zones for purposes of Transfer of Development Rights per Chapter 1, Article IV.

### **Section 6.6.3. Protection Zones.**

The 220-foot-wide Myakka River Protection Zone is divided into four zones of protection as follows and as depicted in Figure 6.6.1.:

- A. Zone 1. Fire Protection Clear Zone. An area 35-feet in depth along the waterward facing exterior wall of the primary structure and a minimum of 35-feet from the remaining exterior walls of the primary structure. This clear zone constitutes the required vegetative removal and turfgrass installation area necessary to allow for fire protection purposes and to serve as a fire protection defensible space as determined by the City of North Port Fire Rescue District. The MRPZ fire protection clear zone shall not encroach within the 150-foot setback of the Myakka River Area.
- B. Zone 2. The house and other structures, on a lot or parcel, as well as the area between the house and the street.
- C. Zone 3. The area between the landward extent of Zone 4 and the landward extent of the Myakka River Protection Zone, excluding Zones 1 and 2.
- D. Zone 4. The 50-foot Myakka River Area Buffer.

**Figure 6.6.3.1. Myakka River Protection Zones Diagram**



Note: This diagram is not to scale.

## Section 6.6.4. Protection Zone Regulations

### 6.6.4.1. Zone 1 and 2 Allowed Activities and Uses:

- Single-family homes and associated accessory structures;
- Townhouse and multifamily residential development legally existing prior to October 14, 2008.
- Commercial uses legally existing prior to October 14, 2008;
- Native vegetation removal in association with City-approved permits for construction of primary structures or to create or maintain a fire protection clear zone around the primary structure.
- Earthmoving/filling;

- F. Installation of turf grass;
- G. Removal of invasive exotic plant species as described in the most current Florida Exotic Pest Plant Council (FLEPPC) Invasive Plant Lists as amended, provided such removal does not damage native vegetation, as well as the removal of poison ivy (*Toxicodendron radicans*), nettles (*Urtica* spp.) and sandspur (*Cenchrus* spp.).

All other activities and uses are prohibited.

**6.6.4.2. Zone 3 Allowed Activities and Uses:**

Native vegetation removal may be allowed in Zone 3 only for the following purposes:

- A. To create or maintain private nature trails having a maximum width of 4-feet;
- B. To create or maintain a single access to a permitted dock or pier;
- C. To construct elevated patios, gazebos up to four hundred (400) square feet in floor area, decks, and walkways, and caged or non-caged swimming pools;
- D. City maintenance and access;
- E. Road and utility crossings;
- F. Nature trails;
- G. Public utility and drainage projects.

All other activities and uses are prohibited.

**6.6.4.3. Zone 4 Allowed Activities and Uses:**

- A. Public utility and drainage projects, including removal of native vegetation as necessary. The principles of avoidance first then minimization shall be used in the design of all proposed projects.
- B. Family recreation, including, but not limited to, the placement of swing sets, barbeque grills, benches, and children's swimming pools within existing cleared areas.
- C. Native vegetation removal to create or maintain private nature trails having a maximum width of 4-feet, or to create or maintain a single access to a permitted dock or pier.

All other uses and activities are prohibited.

**6.6.4.4. Development Standards:**

- A. On-site sewage disposal systems. An alternative waste system (see definition, Appendix) shall be required for all new systems and replacement of existing systems and shall only be placed landward of the primary structure.
- B. Elevated patios, gazebos up to four hundred (400) square feet in floor area, decks, and walkways, and caged or non-caged swimming pools shall maintain a minimum setback of 100-foot landward of Zone 4. All other accessory structures except docks and piers shall maintain a 150-foot setback landward of Zone 4.

**Section 6.6.5. Variances**

The Zoning Hearing Officer may grant a variance to the Myakka River Protection Zone regulations pursuant to Chapter 2 of this ULDC, provided such variance shall not allow construction or development within 100-feet of Zone 4.



## ARTICLE VII – TREE PROTECTION REGULATIONS

### **Section 6.7.1. Generally**

- A. The purpose of this Article is to establish rules and regulations governing the protection of trees as a valuable community resource within the City; to encourage the proliferation of trees within the City as well as their replacement; to recognize their importance and their meaningful contribution to a healthy, beautiful, and safer community attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention, wildlife habitat, surface drainage improvement, beautification and aesthetic enhancement of improved and vacant lands; and the general promotion of the health, safety, welfare and well-being of the community.
- B. Except where exempted herein, no development, site clearing, or tree removal may commence until the ULDC Administrator approves the development via the appropriate review process outlined in Section 6.1.2.B. of this Chapter.

### **Section 6.7.2. Exemptions**

- A. Exempt agencies: Federal, county, and municipal government agencies and public utilities.
- B. Exempt trees:
  - (1). Any on the list of Prohibited Plant Species list, Chapter 4, Article III, or any tree species on the most recent Florida Exotic Pest Plant Council Category I list of invasive species.
  - (2). Dead trees on vacant property, as verified by the ULDC Administrator;
  - (3). Trees on private or public property that pose an imminent danger to the public as determined by the ULDC Administrator in accordance with tree risk assessment language, defined by the International Society of Arboriculture (ISA).
  - (4). Trees planted on the premises of a plant nursery or tree farm that have been grown expressly for the purpose of selling.
- C. Exempt conditions:
  - (1). The property owner possesses documentation from an arborist, certified by the ISA, or a Florida licensed landscape architect, stating that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017). Replanting shall not be required for a tree that was pruned, trimmed, or removed in accordance with Florida Statute 163.045.
  - (2). Where the ULDC Administrator has suspended enforcement of all or part of these regulations due to natural disasters such as hurricanes, tornadoes, floods, storms/high winds, hard freezes, fires, The waiver shall apply to a geographically defined area for a period not to exceed 90 days. Longer periods of suspension shall require city commission approval.

### **Section 6.7.3. Harmful Acts**

- A. Nothing in this section shall be construed to prevent reasonable and proper trimming of trees on public or private property by authorized persons in accordance American National Standards Institute (ANSI) A300 Tree Care Standards.



- B. No person shall abuse, mutilate, or otherwise damage any tree, including those trees located in the public right-of-way. Any person who mutilates a tree in conflict with this Article shall be required to remove the tree and will be required to comply with tree replacement provisions herein.
- C. No person shall attach any signs in an injurious manner to any tree, nor shall any person cause any substance harmful to trees to touch them or prevent water or oxygen from reaching their roots by excessive cut and fill activities.

**Section 6.7.4. Protection Regulations**

Heritage tree/protected tree removal shall only be authorized in compliance with this Section.

**6.7.4.1. New Development Clearing and Tree Removal**

A. **Tree Survey and Tree Preservation and Protection Plan Required.** Except as provided for in Paragraph B. below, a tree location survey, and if trees are proposed to remain on site, a tree preservation and protection plan are required per Chapter 2 of this ULDC which plan, for Subdivision or Site Development and Infrastructure Plans shall depict tree preservation percentages meeting the requirements of Chapter 4, Section 4.1.3.

B. **One-and-Two Family Lot Clearing and Tree Removal**

At the option of the property owner, instead of providing a tree survey and mitigation per tree removed, clearing and tree removal may be authorized subject to payment of an environmental mitigation fee per the City fee schedule. However, if a heritage tree(s) is identified on the property by Natural Resources Division staff upon initial site inspection, payment of the heritage tree removal fee per the City fee schedule will also be required.

C. **Heritage Tree Designation.** Criteria for designation as a Heritage tree are provided in the table below which are in addition to the requirement that the tree has a Condition Classification of 70% or greater, as defined by the "Guide for Plant Appraisal" latest edition, published by the ISA.

**Table 6.7.4.1. Heritage Tree Designation Points**

Species	Measurement	Points	Points for Heritage Tree Designation
Native Trees (all)	24 DBH	-	-
Bald Cypress ( <i>Taxodium distichum</i> ) Hickory ( <i>Carya spp.</i> ) Live Oak ( <i>Quercus virginiana</i> ) Sand Live Oak ( <i>Quercus geminata</i> ) Southern Magnolia ( <i>Magnolia grandiflora</i> ) Southern Red Cedar ( <i>Juniperus silicicola</i> )	DBH	1 / inch	80
	Height <sup>1</sup>	1 /foot	
	Canopy spread <sup>2</sup>	1 / 4 feet	
Pine ( <i>Pinus spp.</i> )	DBH	1 / inch	60
	Height <sup>1</sup>	1 /foot	
	Canopy spread <sup>2</sup>	1 / 4 feet	

<sup>1</sup> Height measured to the nearest foot.

<sup>2</sup> Measure the longest and shortest diameters of the limb spread or drip line and divide by 2.

**D. Heritage Tree Protection and Preservation.**

Healthy heritage trees shall be preserved and protected and may not be removed unless ULDC Administrator determines that preservation would result in the conditions listed in (1) or (2) below. In those cases, approval will be granted subject to satisfying the mitigation requirements provided for herein.

(1) The ULDC Administrator determines that a primary structure and common residential accessory structures of a scale consistent with other one-and-two-family development in the City may not be developed in conjunction with preservation of heritage trees.

(2) The ULDC Administrator determines, for all other development types, that the site may not be redesigned at the same level of intensity in conjunction with the preservation of heritages tree due to flood zones, soils or topography of the site, access management constraints, or height restrictions.

**E. Tree Mitigation Required.** The following provides tree mitigation as a basis for offsetting the loss of tree canopy based on species and size. Mitigation for Heritage tree removal shall require payment of a fee per the City fee schedule. Mitigation fees for protected trees is based on mitigation points and shall be paid per the City fee schedule.

**Table 6.7.4.2. Protected Tree Mitigation Points**

<b>Protected Tree Species</b>	<b>Mitigation Point Basis<sup>1</sup></b>
Protected Scrub Oaks, Live Oaks, and Laurel Oaks	DBH
Slash Pines, Longleaf Pines	DBH/3
Sabal Palms (4.5 feet or more of clear trunk height)	4 Points/Palm

<sup>1</sup> Tree mitigation fees for heavily wooded parcels or combined parcels for development of 100-acres or larger, with an approved alternate methodology, tree mitigation fees shall be calculated based on the extrapolated test plot data and test plot delineation overlaid site-wide.

**F. Conservation Credits.** Credits apply to preserved trees and newly planted trees represented on a landscape plan that comply with the size requirements in Chapter 4, Article III. Conservation credits allow applicants to lower their mitigation points thereby reducing or eliminating mitigation fees. If the calculation results in a negative balance the default balance is zero. (Negative balance do not result in payment to the applicant). Balances with decimals will be rounded up when the decimal is five (5) or greater and rounded down if the decimal is less than five (5). A negative balance cannot offset a heritage tree outside of the footprint. However, a negative balance can be used to offset a heritage tree mitigation fee on a residential lot when the tree is located within the footprint of the residential unit, and there is no alternative to reposition the residential unit location on the lot to avoid removal of the tree.

Mitigation Points Conservation Credits = Balance ≥ zero

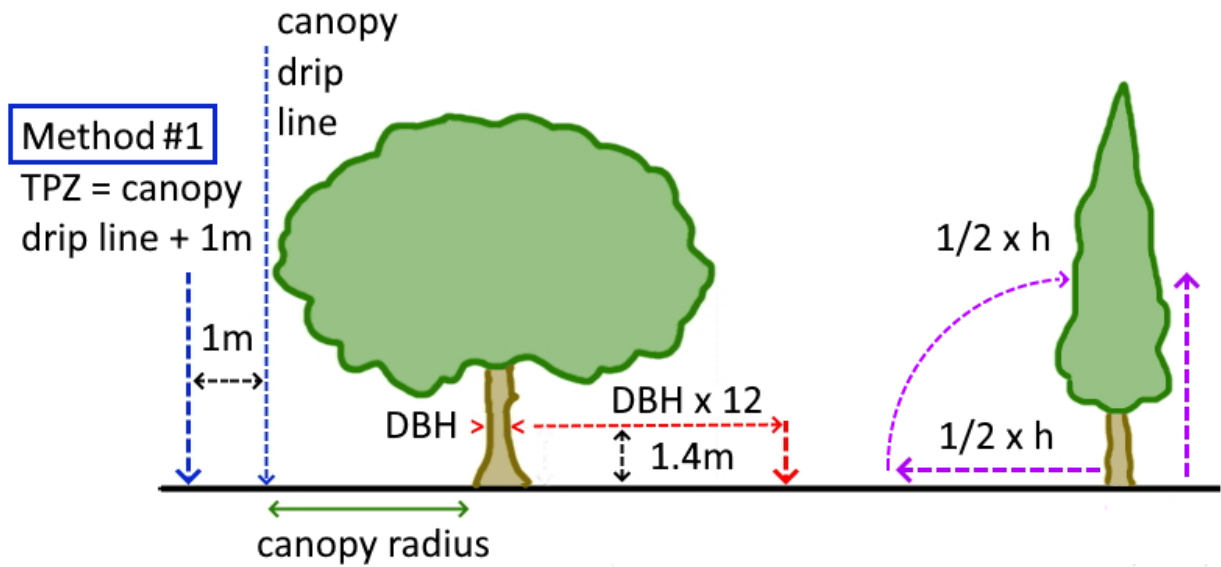
**Table 67.4.3. Conservation Credits**

<b>Preserved Tree Species or Type</b>	<b>Conservation Credit Point Basis</b>
Heritage	3 x DBH
Protected Pines, Oaks, or Native Trees	2 x DBH
Protected Sabal Palms	DBH
Other Trees on Master Tree List (Chapter 4, Article III)	DBH
<b>New Trees Planted by Species or Type</b>	<b>Conservation Credit Point Basis</b>
Master Tree List (Chapter 4, Article III)	DBH
Sabal Palms (4.5 feet or more of clear trunk height)	12/Palm

- G. **Tree Preservation and Protection During Construction.** Prior to commencing work and throughout the duration of the clearing and/or construction all trees proposed to be removed shall be clearly marked with red flagging. Barricades shall be erected around the tree protection zone of trees to be preserved per Figure 6.X.2. The barricade and tree protection zone may be modified at the discretion of the ULDC Administrator.

**Figure 6.7.4.1 Required Tree Protection Zones**

Calculating the Tree Protection Zone (TPZ)



**Method #1**

TPZ = canopy drip line + 1m

1m

canopy radius

DBH

DBH x 12

1.4m

$1/2 \times h$

$1/2 \times h$

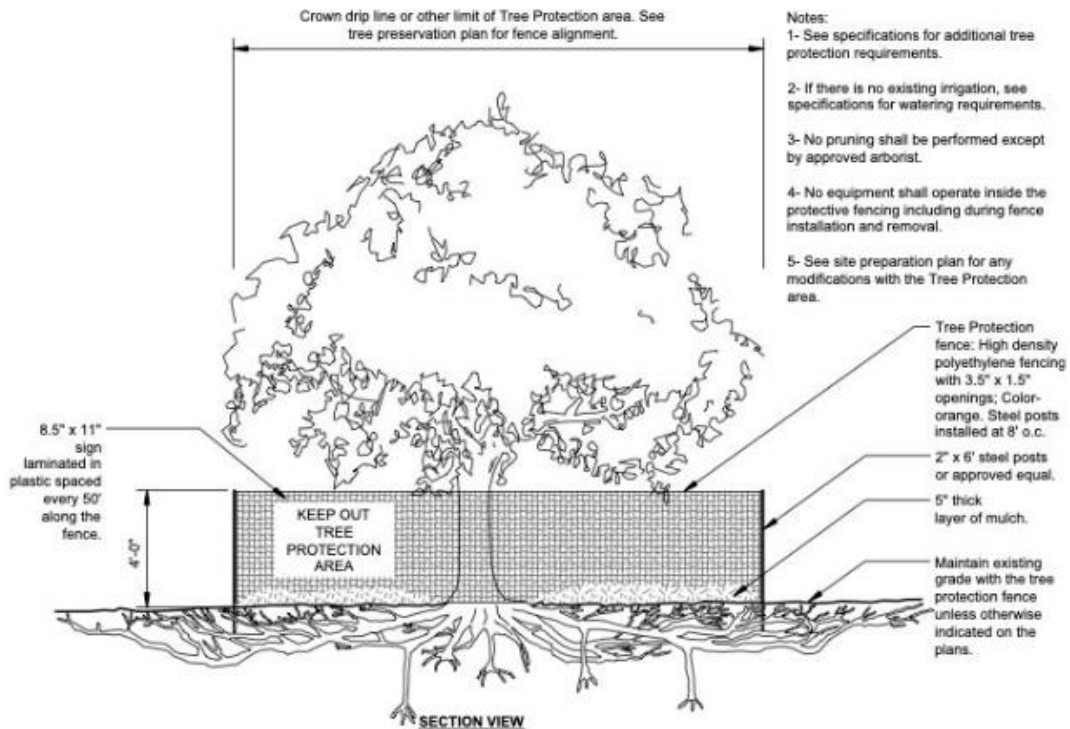
**Method #2**

TPZ = tree diameter at breast height (DBH) x12

**Method #3**

TPZ =  $1/2 \times$  tree height (for tall, narrow trees)

**Figure 6.7.4.2. Tree Protection Zone Barrier**



H. The tree protection zone barrier shall meet the specifications shown in **Figure 6.X.2**, including:

- (1). Installation of a 4-foot fence around the tree protection zone of high-density polyethylene material with 2.5-inch x 1.5-inch openings; color of orange; 2-inch by 6-foot steel posts installed at 8-foot on center.
- (2). Place 8.5-inch x 11-inch plastic laminated signs indicating, "KEEP OUT TREE PROTECTION AREA," spaced every 50-feet along the fence.
- (3). Provide a 5-inch layer of mulch inside the fenced area;
- (4). Maintain existing read with the tree protection fence unless otherwise indicated on the approved engineering construction plans.

I. The following activities and uses are prohibited in the tree protection zone and barrier area. Removal of understory vegetation may only occur at time of final grading and accomplished only by mowing or hand-clearing;

- (1). Parking of heavy equipment, cars and trucks or vehicular traffic;
- (2). Stockpiling of any materials;
- (3). Deposition of soil, or sediment;
- (4). Grading or grubbing;
- (5). Excavation or trenching;
- (6). Burning or burial of debris (within the entire construction site);

- (7). Dumping oil, gasoline, paint, chemicals, wastewater, or other construction wastes. Potentially hazardous materials shall be stored in appropriate, non-leaking containers as far away from tree protection zone as possible.

#### **6.7.4.2. Tree Removal on Developed Property**

- A. **Site Plan Required.** A site plan showing the location of the primary structure, access points, parking areas, etc. is required to be submitted with requests for tree removal authorization. The plan must show all trees on the property including species and DBH.
- B. Tree removal on developed property may be authorized for the following reasons subject to tree replacement, if replacement is required, to comply with minimum planting requirements or compliance with an approved landscape plan per Chapter 4, Article III.
- (1). Hazard. A tree that constitutes a hazard to life or property;
  - (2). Poor tree health. Tree is diseased, lacking functioning vascular tissue, or deteriorating to such a state that restoration methods to bring the tree to a sound condition are not practical; or the tree has a disease that can be expected to be transmitted to other trees.
  - (3). Occupied structure. The tree is located within 15-feet of an occupied structure but not on an adjacent property under separate ownership.

## ARTICLE VIII – WETLAND PROTECTION REGULATIONS

### **Section 6.8.1. Generally**

- A. Recognizing the crucial natural function of wetlands in flood control, water quality and quantity, and wildlife preservation, the purpose of this Article is to preserve, protect, and enhance wetlands within the City, based on a policy of no net loss of wetland function.
- B. The regulations in this Article apply to all wetland areas as defined in Chapter 62-340, Florida Administrative Code (FAC).
- C. If the wetland is within the Conservation Restricted Overlay Zone, or the Myakka River Protection Zone (MRPZ), the provisions of Article III and Article VII of this Chapter apply in addition to the regulations in this Article.
- D. The regulations in this Article are not intended to interfere with, abrogate, or annul any other City rule or regulation, statute, or other provision of law. Where any of these regulations or any other City, County, State or Federal rule, regulation or other provision of law are in conflict, whichever provisions are most restrictive or impose highest standards shall prevail. Additionally, these regulations are not intended to abrogate any easements, covenant, or any other private agreement or restriction. However, where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or private agreement or restriction, the provisions of these regulations shall govern.

### **Section 6.8.2. Transfer of Development Rights**

Given the environmental sensitivity of the wetlands, the City prioritizes their preservation, maintenance, and enhancement over authorizing impacts through the development approval process. Therefore, wetland areas as defined in Chapter 62-340 qualify as Sending Zones for purposes of Transfer of Development Rights per Chapter 1, Article IV.

### **Section 6.8.3. Relationship to State and Federal Regulations.**

- A. Single-family lots, platted by the General Development Corporation, are regulated by the Florida Department of Environmental Protection (FDEP) and may be regulated by the U.S. Army Corps of Engineers (USACE). All other development is regulated by the Southwest Florida Water Management District (SWFWMD) and may be regulated by the USACE. Any filling of wetlands shall require mitigation in accordance with the FDEP/SWFWMD and a consultation with the USACE.
- B. The City of North Port shall rely on the delineation of wetlands and surface waters by the FDEP and/or SWFWMD. This delineation shall be accurately reflected in the construction plans that are submitted to the City for review.
- C. Prior to commencing construction in any wetland area as defined herein, all required state and federal approvals shall be obtained and submitted to the City. In cases when a state or federal permit is not required, a copy of an exemption letter from the respective agency shall be presented to the City before commencement of development.

### **Section 6.8.4. Exemptions**

The following activities are exempt from the requirements of this Article; however, all other applicable permits shall be obtained, and if applicable the property owner must obtain a verification of exemption or permit from FDEP, SWFWMD, or USACE prior to commencing work.

- A. Routine maintenance or emergency repair to existing structures or improved areas. There shall be no increase in size or coverage of the structure or other improved area.
- B. One-and-two-family dwellings constructed prior to the adoption of this exempt from the upland buffer requirement.
- C. Exempt docks per Florida Statutes and Florida Administrative Code.
- D. Selective cutting and hand-removal of problematic vegetation including Cattails (*Typha* spp.), Primrose Willow (*Ludwigia* spp.), Wild Taro (*Colocasia esculenta*), Elephant-Ear (*Xanthosoma sagittifolium*), Giant Reed (*Phragmites* spp.), Paragrass (*Brachiaria mutica*), Punk Tree (*Melaleuca quinquenervia*), Elderberry (*Sambucus canadensis*), Chinaberry (*Melia azedarach*), Castor Bean (*Ricinus communis*), Chinese tallow tree (*Sapium sebiferum*), and Brazilian Pepper Tree (*Schinus terebinthifolius*). Additionally, cutting and hand removal of any other Category I or Category II invasive plant species as identified by the Florida Invasive Species Council.
- E. Hand clearing of native vegetation within a wetland buffer if needed to provide access to the shoreline as authorized by FDEP, SWFMD, or USACE.
- A. Hand-cleared primitive trails four feet or less in width having no structural components, introduced substrate materials (e.g., flagstone, mulch, gravel, sand, etc.), or other improvements.
- B. Repair or maintenance of ditches, water retention areas, public road and other rights-of-way, and similar drainage systems providing such work is limited to that needed to restore the site to original design specifications.
- C. Repair or maintenance of ditches or dikes related to bona fide mosquito control activities providing such work is limited to that needed to restore the site to original design specifications.
- D. Activities within artificial wetlands created as part of a manmade treatment system, provided they are not connected to a non-isolated wetland, river, stream, or lake.

#### **Section 6.8.5. Protection Regulations**

- A. The City shall prioritize wetland protective activities as follows: avoid filling wetland resources; minimize adverse impacts to those wetlands that cannot reasonably be avoided; and provide compensatory mitigation via the state permitting process. If the ULDC Administrator determines avoidance would result in conditions listed in (1) or (2) below, approval to impact or mitigate wetlands will be granted subject to state or federal permits being obtained prior to commencing construction.
  - (1) The ULDC Administrator determines that a primary structure and common residential accessory structures of a scale consistent with other one-and-two-family development in the City may not be developed in conjunction with the wetland preservation.
  - (2) The ULDC Administrator determines, for all other development types, that the site may not be redesigned at the same level of intensity in conjunction with the wetland preservation due to flood zones, soils or topography of the site, access management constraints, or height restrictions.
- B. Wetlands, whether endemic or artificially created or otherwise altered, may be protected, maintained, and/or enhanced under a conservation easement and maintained in accordance with Florida Statutes 704.06., which conservation easement shall be required in association with an authorization for Transfer of Development Rights. Dedication of the conservation easement



may be offered to the SWFWMD, other applicable state environmental regulatory agencies, and private, nonprofit ecological preservation societies until one party agrees to assume the easement and provide for perpetual maintenance. If not dedicated the property owner shall be responsible for ongoing maintenance pursuant to the conservation easement.

- C. The use of heavy equipment in a wetland during construction will be prohibited, unless specifically authorized by FDEP/SWFWMD and the impacts mitigated.
- D. Stormwater facilities may incorporate isolated wetlands into stormwater management systems, provided that the stormwater runoff is pre-treated prior to entering the wetland, so that the wetland is used for nutrient reduction and volume attenuation.

**6.8.5.1. Development Approval Required**

It is hereby unlawful for any person to engage in any activity which will remove, fill, drain, dredge, clear, destroy, or alter any wetland or adjacent upland buffer area, without obtaining a wetlands alteration permit or exemption from all appropriate jurisdictional agencies. Application shall be made to the City as part of the applicable application for development plan approval per Section 6.1.2.B. of this Chapter.

**6.8.5.2. Buffer Requirements**

- A. Buffer zones shall be established upland of the landward extent of the wetland jurisdictional line as defined by SWFWMD criteria. The size of the buffer shall vary accordingly in proportion with the ecological value of the adjacent wetland, based on the following classifications:

Isolated: Onsite wetlands that are entirely isolated hydrologically from offsite wetlands and are not considered waters-of-the-state.

Non-isolated: Onsite wetlands that are connected hydrologically to offsite wetlands; however, the connection is not through permanent standing water.

River, Stream, or Lake: Onsite wetlands which are riparian or otherwise connected to offsite wetlands via permanent bodies of water.

- B. The following buffers, which may coincide with a portion of the required building setback shall be required:

Wetland Classification	Width
Isolated	25 feet
Non-isolated	35 feet
Canal	35 feet
River/Stream/Lake	50 feet

The buffer may be modified along the perimeter of the wetland system to accommodate the development design. In this case, the upland buffer shall be located such that no less than average and minimum buffer, as listed below, exists along the perimeter of the wetland system.

Wetland Classification	Average Width	Minimum Width
Isolated	25 feet	15 feet
Non-isolated	35 feet	15 feet
Canal	35 feet	15 feet
River/Stream/Lake	50 feet	35 feet

In no case shall a buffer impede reasonable access to a body of water. If the lake or open water body is wholly owned and contained within a single lot or parcel, the buffer may be modified to allow for greater water access. In this case, the upland buffer shall be located such that not less than an average of 25-feet of total upland buffer with a minimum of 15-foot width exists along the perimeter of the wetland littoral zone.

- A. Within the wetland buffer, native vegetation shall be preserved, restored, or otherwise maintained within a belt no less than 15-foot wide, sited adjacent to and landward of the State's wetland jurisdictional boundary. This native vegetation belt shall not be subject to mowing, trimming, or chemical spraying.
- B. Stormwater swale encroachment within the upland buffer shall be limited to 50 percent of the buffer width if approved by the appropriate regulatory agencies. However, stormwater swales shall not infringe on the 10-foot-wide native vegetation belt.

#### **Section 6.8.6. Erosion and Sediment Control Required**

- A. Erosion control plans will be required for all development in areas sited on or immediately above (within 50 feet) a slope of ten percent or more, upslope of nearby aquatic habitats, or within 400 feet of the state's wetland jurisdictional boundaries.
- B. Standard practices shall be used to prevent erosion and offsite soil deposition via water and air currents. Erosion rates are influenced by soil characteristics, plant cover, topography, and climatic conditions. The following principles must be considered when planning and undertaking construction within a development:
  - (1). Plan for the development project to fit the topography, soils, and drainage patterns;
  - (2). Minimize the extent and duration of the area's exposure at one time;
  - (3). Schedule the exposure of areas with the greatest erosion potential for the dry season (November through April), rather than the wet season (May through October);
  - (4). Apply erosion control practices to minimize erosion from undisturbed areas;
  - (5). Use turbidity barriers to minimize impacts to wetlands;
  - (6). Apply perimeter controls to protect the disturbed area from offsite runoff and to trap eroded material onsite, preventing sedimentation in downstream areas;
  - (7). Stabilize the undisturbed area immediately after the final grade is attained or during interim periods of inactivity due to construction delays; and
  - (8). Implement a maintenance and follow-up program.
- C. Erosion and Sediment Control Plan Requirements: The plan must consider the site-specific erosion potential, including slopes, soil erodibility, extent and type of plant cover, and runoff characteristics. Projects with larger exposed areas, long duration of construction, steep slopes, erosive soils, or close proximity to streams, lakes or other wetlands, will require more detailed and comprehensive plans. The following information must be included in the plan and shall be shown on the development construction plans or other appropriate documents.
  - (1). The existing and proposed topography, mapped to scale;
  - (2). The distribution of soil types as identified and mapped to scale by the U.S. Department of Agriculture's Soil Conservation Service (NRCS) for Sarasota County . A table describing the erodibility potential for each soil type as determined by the NRCS shall also be included;

- (3). The schedule and general description of each construction phase of the project. At a minimum, the following applicable phases must be addressed: clearing, excavation, earthwork, embankment earthwork, site utilities, roads, site grading and stabilization. The schedule must include the estimated starting date and duration. Description must include area boundary by each phase; and
  - (4). Specific erosion control measures shall be described and illustrated on construction plans or detail sheets for each phase. Such information shall include the following:
    - a. Estimated date of installation and removal for erosion control elements;
    - b. Thorough descriptions of the materials used in the construction of erosion control elements. Descriptions should include any references to industry- or government-approved standards and design specifications associated with each erosion control element;
    - c. Placement and function of each type of erosion control element;
- D. No more than 15 days may elapse between site clearance and construction commencement; no more than 30 days may elapse between construction completion and the beginning of ground cover restoration.