

ARTICLE 5**RESOURCE PROTECTION STANDARDS****5.01.00 Development In Flood Prone Areas****5.01.01 Administration - General**

5.01.01.01 Title. These regulations shall be known as the *Floodplain Management Ordinances* of the City of Wauchula, hereinafter referred to as “this ordinance” or “this article.”

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

5.01.01.03 Intent. The purposes of this article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access, and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and

development of flood hazard areas;

- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

5.01.01.04 Coordination with the Florida Building Code. This article is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

5.01.01.05 Warning. The degree of flood protection required by this article and the *Florida Building Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes, and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this article.

5.01.01.06 Disclaimer of Liability. This article shall not create liability on the part of the City Commission of the City of Wauchula or by any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made thereunder.

5.01.02 Administration - Applicability

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

5.01.02.02 Areas to which this article applies. This article shall apply to all flood hazard areas within the City of Wauchula, as established in Section 5.01.02.03 of this article.

5.01.02.03 Basis for establishing flood hazard areas. The Flood Insurance Study for Hardee County, Florida and Incorporated Areas dated May 4, 1988, and all

subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City of Wauchula, 126 S. 7th Avenue, Wauchula, FL 33873.

5.01.02.03.01 Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to Section 5.01.05 of this article the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

- (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.
- (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

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

5.01.02.05 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.

5.01.02.06 Interpretation. In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

5.01.03 Duties and Powers of the Floodplain Administrator

5.01.03.01 Designation. The City Manager is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

5.01.03.02 General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to Section 5.01.07 of this article.

5.01.03.03 Applications and permits. The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

- (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;
- (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- (4) Provide available flood elevation and flood hazard information;
- (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
- (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and
- (8) Coordinate with and provide comments to the Building Official to assure

that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.

5.01.03.04 Determinations for existing buildings and structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this article is required.

5.01.03.05 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 5.01.07 of this article.

5.01.03.06 Notices and orders. The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.

5.01.03.07 Inspections. The Floodplain Administrator shall make the required inspections as specified in Section 5.01.06 of this article for development that is

not subject to the *Florida Building Code*, including buildings, structures, and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

5.01.03.08 Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:

- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 5.01.03.04 of this article;
- (2) 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);
- (3) 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 6 months of such data becoming available;
- (4) Review required design certifications and documentation of elevations specified by this article and the Florida Building Code and this article to determine that such certifications and documentations are complete; and
- (5) Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Wauchula are modified.

5.01.03.09 Floodplain management records. Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered

watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the City of Wauchula, 126 S. 7th Avenue, Wauchula, FL 33873.

5.01.04 Permits

5.01.04.01 Permits required. Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this article, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.

5.01.04.02 Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to this article for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures, and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

5.01.04.02.01 Buildings, structures and facilities exempt from the Florida Building Code. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this article:

- (1) Railroads and ancillary facilities associated with the railroad.
- (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (3) Temporary buildings or sheds used exclusively for construction purposes.
- (4) Mobile or modular structures used as temporary offices.
- (5) Those structures or facilities of electric utilities, as defined in section

366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.

- (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term “chickee” means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (9) Structures identified in 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

5.01.04.03 Application for a permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

- (1) Identify and describe the development to be covered by the permit or approval.
- (2). Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in Section article 5.01.05 of this article.
- (5) State the valuation of the proposed work.
- (6) Be signed by the applicant or the applicant's authorized agent.
- (7) Give such other data and information as required by the Floodplain Administrator.

5.01.04.04 Validity of permit or approval. The issuance of a floodplain development permit or approval pursuant to this article shall not be construed to be a permit for, or approval of, any violation of this article, the *Florida Building Codes*, or any other article 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.

5.01.04.05 Expiration. A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

5.01.04.06 Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this ordinance or any other ordinance, regulation, or requirement of this community.

5.01.04.07 Other permits required. Floodplain development permits and 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:

- (1) The Southwest Florida Water Management District; section 373.036, F.S.
- (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- (3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- (4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

5.01.05 Site Plans and Construction Documents

5.01.05.01 Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (2) Where flood hazard areas, 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 article 5.01.05.02 of this article.
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 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 5.01.05.02 (1) or (2) of this article.
- (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) Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this article 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 article.

5.01.05.02 Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

- (1) 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; or

- (2) Where base flood elevation data and floodway data are not available from another source, where the available the data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - a. Require the applicant to develop base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - b. Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
- (3) 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.

5.01.05.03 Additional analyses and certifications. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- (1) For development activities proposed to be located in a regulatory floodway, 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 FEMA as specified in Section 5.01.05.04 of this article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- (2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, a floodway encroachment analysis which demonstrates 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 (1) foot 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.

- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the 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 5.01.05.04 of this article.

5.01.05.04 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.

5.01.06 Inspections

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

5.01.06.01.01 Development other than buildings and structures. The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

5.01.06.01.02 Buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

5.01.06.01.02.01 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:

- (1) 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

- (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 5.01.05.02(2)(b) of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

5.01.06.01.02.02 Buildings, structures and facilities exempt from the Florida Building Code, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 5.01.06.01.02.01 of this article.

5.01.06.01.03 Manufactured homes. The Building Official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Building Official.

5.01.07 Variances and Appeals

5.01.07.01 General. The City Commission shall hear and decide on requests for appeals and requests for variances from the strict application of this article. Pursuant to section 553.73(5), F.S., the City Commission 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*.

5.01.07.02 Appeals. The City Commission 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 article. Any person aggrieved by the decision of the City Commission may appeal such decision to the Circuit Court, as provided by Florida Statutes.

5.01.07.03 Limitations on authority to grant variances. The City Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 5.01.07.06 of this article, the conditions of issuance set forth in Section 5.01.07.07 of this article, and the comments and recommendations of the Floodplain Administrator and the Building Official. The City Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.

5.01.07.03.01 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 5.01.05.03 of this article.

5.01.07.04 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 11 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.

5.01.07.05 Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance meets the requirements of Section article 5.01.07.03.01, 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.

5.01.07.06 Considerations for issuance of variances. In reviewing requests for variances, the City Commission shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this article, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (4) The importance of the services provided by the proposed development to the community;
- (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

- (6) The compatibility of the proposed development with existing and anticipated development;
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

5.01.07.07 Conditions for issuance of variances. Variances shall be issued only upon:

- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards;
- (2) Determination by the City Commission that:
 - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - b. 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; and
 - c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) 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

- (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

5.01.08 Violations

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

5.01.08.02 Authority. For development that is not within the scope of the *Florida Building Code* but that is regulated by this article and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

5.01.08.03 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 law.

5.01.09 Definitions

5.01.09.01 Scope. Unless otherwise expressly stated, the words and terms located in Article 9 shall, for the purposes of this article, have the meanings shown in this section.

5.01.09.02 Terms defined in the Florida Building Code. Where terms are not defined in Article 9 and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

5.01.09.03 Terms not defined. Where terms are not defined in Article 9 or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

5.01.10 Flood Resistant Development

5.01.10.01 Buildings and Structures

5.01.10.01.01 Design and construction of buildings, structures, and facilities exempt from the Florida Building Code. Pursuant to Section 5.01.04.02.01 of this article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 5.03.07 of this article.

5.01.10.02 Subdivisions

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

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

5.01.10.02.02 Subdivision plats. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats and final plats;
- (2) Where the subdivision has more than 50 lots or is larger than 5

acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 5.01.05.02(1) or (2) of this article; and

- (3) Compliance with the site improvement and utilities requirements of Section 5.03.03 of this article.

5.01.10.03 Site Improvements, Utilities, and Limitations

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

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

5.01.10.03.02 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 flood waters, and impairment of the facilities and systems.

5.01.10.03.03 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.

5.01.10.03.04 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 5.01.05.03(1) of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in

the base flood elevation.

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

5.01.10.04 Manufactured Homes

5.01.10.04.01 General. 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 article.

5.01.10.04.02 Limitations on installation in floodways. New installations of manufactured homes shall not be permitted in floodways.

5.01.10.04.03 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 article.

5.01.10.04.04 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.

5.01.10.04.05 Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 5.03.04.04.01 or 5.03.04.04.02 of this article, as applicable.

5.01.10.04.05.01 General elevation requirement. Unless subject to the requirements of Section 5.03.04.04.02 of this article, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home

park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A).

5.01.10.04.05.02 Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to Section 5.03.04.04.01 of this article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

- (1) Bottom of the frame of the manufactured home is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A); or
- (2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

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

5.01.10.04.07 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.

5.01.10.05 Recreational Vehicles And Park Trailers

5.01.10.05.01 Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

- (1) Be on the site for fewer than 180 consecutive days; or
- (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as

additions, rooms, stairs, decks and porches.

5.01.10.05.02 Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in Section 5.03.05.01 of this article for temporary placement shall meet the requirements of Section 5.03.04 of this article for manufactured homes.

5.01.10.06 Tanks

5.01.10.06.01 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.

5.01.10.06.02 Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 5.03.06.03 of this article 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.

5.01.10.06.03 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.

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

- (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- (2). Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

5.01.10.07 Other Development

5.01.10.07.01 General requirements for other development. All

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

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 5.03.03.04 of this article if located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (4) Be constructed of flood damage-resistant materials; and
- (5) Have mechanical, plumbing, and electrical systems above the design flood elevation, 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.

5.01.10.07.02 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 5.03.03.04 of this article.

5.01.10.07.03 Retaining walls, sidewalks, and driveways in regulated floodways. Retaining walls, sidewalks, and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 5.03.03.04 of this article.

5.01.10.07.04 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 5.03.03.04 of this article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 5.01.01.03(3) of this article.

5.02.00 Potable Water Wellhead Protection Areas

5.02.01 Purpose and Intent

The purpose and intent of this Section is to safeguard the health, safety, and welfare of the citizens of the City by registering all land uses and activities that occur within Wellhead Protection Areas surrounding potable water supply wells, thereby providing protection of the principal source of water for domestic, agricultural, and industrial use. The availability of adequate and dependable supplies of potable quality water is of primary importance to the future of the City; therefore, standards are described in this Section with the intent of protecting both the quantity and quality of the groundwater supply. It is further the intent of this Section to control development in and adjacent to designated wellheads to protect water supplies from potential contamination.

5.02.02 Establishment of Wellhead Protection Area

Development regulations established in this Section shall be applicable to designated wellhead protection areas for all public supply water wells. Prior to designation of or in the absence of sufficient information for wellhead protection areas, the official Wellhead Protection Area shall consist of a radius of 400 feet around each of the City's public supply potable water wells, as provided for in the Future Land Use Element, Policy 7.1 and Conservation Element, Policy 1.3 of the *Comprehensive Plan of the City of Wauchula* (see Figure 5.02.03(A)). An official map of wells and their Wellhead Protection Areas shall be maintained in the Development Director's office.

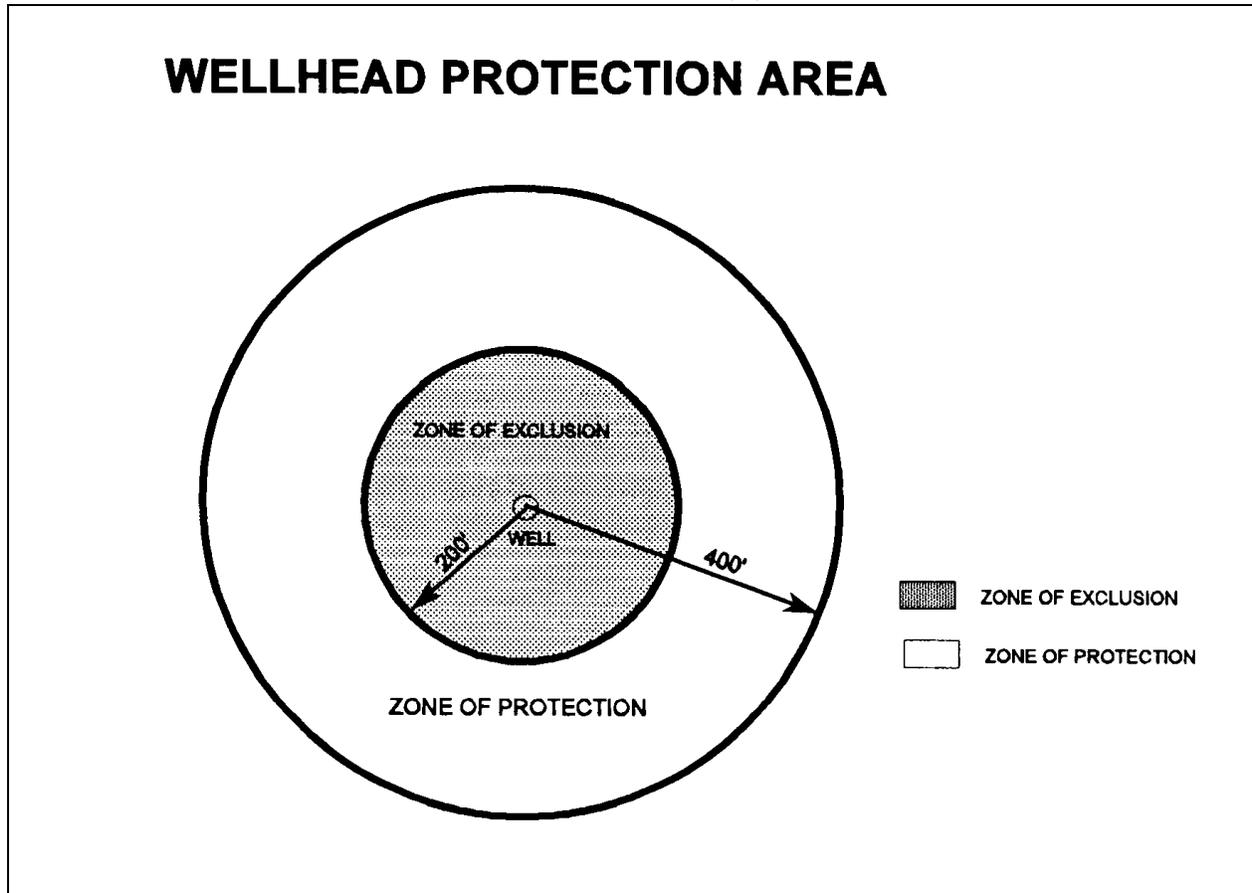
Where a property lies partly outside the Wellhead Protection Area, development standards contained in this Section shall apply only to that part of the property lying within the Wellhead Protection Area. Where the Wellhead Protection Area boundary passes through a building, the entire building shall be considered to be in the Protection Area.

5.02.03 Wellhead Protection Area Land Use Restrictions

- (A) *Zone of Exclusion.* The first 200 foot radius from a well shall be a Zone of Exclusion, where all development activities are prohibited (see Figure 5.02.03(A)).
- (1) It is the intent and purpose of the City to eliminate **all activity** of a hazardous nature or that produces hazardous materials/waste within 200 feet of a wellhead.
- (B) *Zone of Protection.* This Zone is the area from 200 feet to 400 feet from a wellhead (see Figure 5.02.03(A)).
- (1) All activities located 200 feet to 400 feet from a wellhead are permitted in accordance with the zoning district and the Table of Land Uses, except in the handling, production, or storage of hazardous substances, which shall be prohibited within the Wellhead Protection Area.

- (2) The City shall maintain a list of all land uses and activities within the Wellhead Protection Area Zone of Protection by requiring all activities to be registered with the City. The City shall register all activities from 200 to 400 feet of a well within one year of the adoption of the ordinance that established this Section:

FIGURE 5.02.03(A)



- (C) *Prohibited Land Uses and Activities.* The following land uses and activities are prohibited in the entire Wellhead Protection Area, including the Zone of Protection and shall cease within one year of the adoption of the ordinance that established this Section:
- (1) Landfills;
 - (2) Facilities for bulk storage, handling, or processing of materials on the Florida Substance List;
 - (3) Activities that require the storage, use, handling, production, or transportation of restricted substances, agricultural chemicals, petroleum products, hazardous toxic waste, medical waste, or similar substances; non-residential use, handling, production or storage of hazardous substances in any quantity; and, residential use of more than five gallons;
 - (4) Feed lots or other commercial animal facilities;
 - (5) Wastewater treatment plants, percolation ponds, or similar facilities; and
 - (6) Mines; and
 - (7) Excavation of waterways or drainage facilities which intersect the water table.

5.02.04 Registration of Land Uses and Activities in Wellhead Protection Areas

All land uses and activities within the Wellhead Protection Area must be identified and registered with the City. The registration is to enable the City to eliminate all potential sources of contamination of the potable water supply.

- (A) *Registration within One Year.* All land uses and activities from 200 to 400 feet of a wellhead shall be registered with the City within one year from the adoption of the ordinance that that established this Section, **without a fee**. Thereafter, said person shall be subject to the fee schedule adopted in connection with this Code as outlined under Section 5.02.07.
- (B) *Exemptions.* The following activities or uses **are exempt** from registration requirements in the Zone of Protection:
- (1) The transportation of any hazardous substance through the Zone of Protection;

- (2) Fuel in a vehicle fuel tank or as lubricant in a vehicle;
 - (3) Repairing or maintaining any facility or improvement on lands within the Zone of Protection; and
 - (4) Geotechnical borings.
- (C) *Registration Procedure.* Each landowner with a legal use or activity between 200 feet and 400 feet of a wellhead shall notify the City as to the nature of the use or activity. The information shall be sent to the Planning and Zoning Department by letter. The information required is as follows:
- (1) Name, address, and phone number of the property owner, operator, and/or agent, and the Tax Parcel Number;
 - (2) Signature of agent or owner;
 - (3) Locational description of the property, such as "located on Highway 17 between Pine and Redwood Streets."
 - (4) A description of the land use or activity at the location;
 - (5) A list of all known hazardous substances that may be utilized, generated, and/or stored at the described property;
 - (6) If required by the Development Director, a survey or scale drawing of the property, identifying existing structures, adjacent streets, and water bodies in relation to the wellhead.

5.02.05 Modification of Requirements

- (A) Any person affected by this Section may petition the Commissioners for modification from the prohibitions and registering requirements of this Section, provided that the person demonstrates that special or unusual circumstances and adequate technology exists to isolate the facility or activity from the potable water supply in the event of a spill.
- (B) The Commissioners shall determine whether the land use or activity shall be approved under the provisions of this Section. In making this decision, the Commissioners shall consider:
- (1) The cumulative impacts of the land use or activity on the Zone of Protection in combination with other uses or activities that have been permitted within said Zone; and

- (2) Whether the proposed use end product that is a threat to the water supply can be contained in the case of a spill.

5.02.06 Notification of Discontinuation of Land Use or Activity in a Wellhead Protection Zone

- (A) It is the intent and purpose of the City to eliminate all land uses and activities within 200 feet of a wellhead that are hazardous or created hazardous materials or residue. All activities from 200 feet to 400 feet from a wellhead are limited, with some activities prohibited. Those prohibited activities are listed in this Article, specifically in Section 5.02.03(C). An owner of a property that falls within the Wellhead Protection Zone is required to register his land use activity with the City as outlined in this Article, specifically in Section 5.02.04.
- (B) A record will be kept on file of all land uses and activities within the 400 foot Wellhead Protection Area of all wells. If a land use or activity ceases, the owner must notify the City by registered letter within 30 days of cessation of use.

5.02.07 Fee Resolution

The Commissioners may, at their option, adopt a fee schedule by resolution to provide for funding for the administration of this Section.

5.03.00 Wetlands Protection

5.03.01 Purpose and Intent

The Wauchula City Commission has determined that wetlands contiguous to waters of the state, and non-contiguous and isolated wetlands serve important functions in the hydrologic cycle and ecological system and therefore require protection. It is the purpose and intent of this Section to provide for the protection, maintenance, and enhancement of wetlands within the City of Wauchula in accordance with the adopted comprehensive plan, recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the rights of all citizens to protection and purity of the waters of the City of Wauchula and their associated wetland ecosystems. It is further the purpose and intent of this Section to ensure that there is no net loss of wetlands as defined in this Code.

5.03.02 Relationship to Other Requirements Relating to Wetlands Protection

In addition to meeting the following wetlands protection requirements, development plans shall comply with applicable federal, state, and water management district regulations. In all cases, the strictest of the applicable standards shall apply.

5.03.03 Protection Zones Established

Two zones of protection for wetlands are hereby established. The protection zones shall be known as the wetland protection and wetland transitional zones.

- (A) *Wetland Protection Zone.* There is hereby created a wetlands protection zone in which special restrictions on development apply. The boundaries of this zone shall be the most landward extent of the following:
- (1) Areas within the dredge and fill jurisdiction of the FDEP as authorized by Section 403, F.S.
 - (2) Areas within the jurisdiction of the U.S. Army Corps of Engineers as authorized by section 404, Clean Water Act or Section 10, River and Harbor Act.
 - (3) Areas within the jurisdiction of the SWFWMD pursuant to Rule 40D-4, FAC.
 - (4) Development requiring a permit or permits from one or more of the U.S. Army Corps of Engineers, FDEP, and the SWFWMD, shall have the most restrictive agency wetlands boundary determination recognized by the City as the wetlands boundary. The term most restrictive is used here to mean the boundary covering the largest area.
 - (5) In circumstances where the natural boundary of wetland vegetation is unclear, the line of demarcation may be approximated at a surveyed elevation measured at a location in the same wetland where the natural line is clear.
 - (6) In the event an undeveloped area has been recently cleared of all vegetation, the wetland boundary may be determined by a study of the soils, aerial mapping, photography, hydrology, and other relevant historical information.
- (B) *Wetland Transitional Zone.* There is hereby created a wetland transitional zone adjacent to each wetland protection zone. The transitional zone is an area having a direct ground- or surface water influence and functions as a buffer bed. The purpose of the transitional zone is to minimize the adverse effects of development upon the wetland itself. In no case shall a wetland transitional zone of less than 30 feet be approved.

5.03.04 Permits Required

Except as provided in Subsection 5.03.05, no person shall remove, fill, drain, dredge,

clear, destroy, or alter any wetland as defined in this Code without first submitting a wetland management plan to the Development Director and obtaining from the City a wetland alteration permit. This permit may be issued concurrently with any other land development permits issued by the City.

5.03.05 Exemptions

Activities or development types that are exempted from this Section include:

- (A) Non-mechanical clearing of vegetation from an area of less than 10% of the protected zone.
- (B) Minor maintenance or emergency repair to existing structures of improved areas.
- (C) Cleared walking trails having no structural components.
- (D) Timber catwalks and docks four feet or less in width.
- (E) Utility crossings.
- (F) Maintenance of drainage systems, including routine dredge and fill activities in ditches, retention and detention areas, public road, and other rights-of-way.
- (G) Bona fide mosquito control activities.
- (H) Activities approved by a federal, state, or regional agency prior to adoption of the ordinance that established this Section.

5.03.06 Development Standards

- (A) *Wetland Zone.* Except as otherwise provided in this Section, it is presumed that development will have an adverse effect on wetlands. No activities other than those listed below shall be undertaken in a wetland protection zone.

Activities Permitted in Wetland Protection Zones. The following activities and development types generally may be undertaken unless the City determines in a specific case that a listed activity or development type would have a significant adverse impact on the wetland protection zone:

- (1) Scenic, historic, wildlife, or scientific preserves.
- (2) Minor maintenance or emergency repair to existing boat docks, walking trails, and timber catwalks.
- (3) Cultivating agricultural or horticultural products that occur naturally in the

wetland.

- (4) Constructing fences where no fill activity is required and where navigational access will not be impaired by construction of the fence.
 - (5) Developing a "Wetlands Storm Water Discharge Facility" in accordance with state permits received under Chapters 17-25, FAC.
 - (6) Construction of foot bridges and vehicular bridges.
- (B) *Upland Zone.* All development in an upland zone shall be in accordance with the Future Land Use Map of the Comprehensive Plan and the zoning classification, and shall be designed, constructed, and maintained to avoid significant adverse effects on the adjacent wetland. Where a development site lies partly within the wetland zone and partly within the upland zone, the acreage within a wetland zone may be used to determine the total allowable units or square footage of development that will be allowed on a site. This development potential shall be transferred from the wetland zone to the upland zone.

Special Standards for Upland Zones. The following standards shall apply within upland zones:

- (1) Natural vegetative buffer areas shall be retained between all development and all wetlands where such buffer areas exist. The minimum width of the buffer shall be 25 feet and the average of all wetland buffers shall be 40 feet. No structures shall be located in such areas. Impervious surfaces shall be limited to roads or walking trails providing access to a body of water. Where a natural buffer area does not exist, an equivalent buffer shall be created.
- (2) The developer shall completely restore any portion of a wetland zone damaged as a result of construction activity in the upland zone.
- (3) The City may require other reasonable protective measures to be undertaken within the upland zone as necessary to prevent significant adverse effects on a wetland. Protective measures may include, but are not limited to:
 - a. Maintaining natural drainage patterns.
 - b. Limiting the removal of vegetation.
 - c. Minimizing the amount of fill used in the development activity.

- d. Prohibiting or limiting the use of septic tanks.

5.03.07 Mitigation

The City Commission may require mitigation of adverse impacts on wetlands as a condition of development approval if it finds that such impacts are unavoidable. In such cases, action will be taken during or after development to reduce or counteract damage to wetlands areas. A mitigation plan approved by a federal, state, or regional agency shall be acceptable to the City. Mitigation shall not contribute to the production of mosquitoes by creating mosquito larval habitat or by eliminating habitat for predatory fish. The mitigation plan may include, but is not limited to, the following actions:

- (A) Preservation and maintenance regulations to reduce or eliminate the impact over time.
- (B) Compensation for the impact through enhancement of existing wetlands, reestablishment of wetlands that are no longer functioning, or the creation of new wetlands.
- (C) Repair, rehabilitation, or restoration of the wetland.
- (D) Specific design requirements based upon conditions of the site and the type of wetland to be created or restored.
- (E) Periodic monitoring to remove exotic or nuisance vegetation.
- (F) Preservation or creation of an appropriate habitat in an adjacent wetland zone.

A developer of a compensatory mitigation plan shall grant a conservation easement in accordance with Section 704.06, F.S., and Section 5.05.00 of this Code on the newly purchased, created, enhanced, or restored environmentally sensitive lands to protect them from future development. A legal mechanism other than a conservation easement may be considered, if appropriate, to carry out the purpose of this subsection.

5.03.08 Prohibited Ongoing Activities

The following standards apply to post-development activities taking place within any wetland or upland zone.

- (A) *Clearing.* Without an amendment to the development order, no person shall clear more vegetation than was permitted for the original development.
- (B) *Handling and Storage of Fuel, Hazardous and Toxic Substances, and Wastes.* No fuel or toxic substances shall be stored, transferred, or sold in a wetland or an upland zone.

- (C) *Fertilizers, Herbicides, or Pesticides.* Fertilizers, herbicides, or pesticides shall not be applied in a wetland, except for projects conducted under the authority of Sections 373.451 - 373.4595, F.S., the Surface Water Improvement and Management Act, and governmentally authorized mosquito control programs.

5.04.00 Erosion Control

5.04.01 Required Soil Conservation Measures

The following soil conservation measures shall apply to all development activities requiring site development plan or subdivision reviews:

- (A) *During Construction.* The developer shall follow standard practices as specified in the Erosion Control Handbook - Florida published by the U.S. Dept. of Agriculture, Soil Conservation Service, latest edition, or details specifically approved by the City to prevent erosion and depositing of soils off the construction site.
- (B) *After Construction.* All disturbed areas shall be mulched, seeded, or sodded as required by the City, and shall be maintained as such. The removal or lack of maintenance of vegetation resulting in on-site or off-site erosion or windblown loss of soils shall be deemed a violation of this Section.

5.05.00 Conservation Easements

As a condition for approval of a development permit or development order, or as part of a development agreement established under Article 6 of this Code, any person, corporation, or entity owning property in the City of Wauchula may create a conservation easement. Conservation easements shall be subject to the provisions of Section 704.06, F.S., and may be used to prevent or prohibit the following activities:

- (A) Construction or placing of buildings, roads, signs or other advertising, utilities, or other structures on or above the ground.
- (B) Dumping or placing of soil or other substances or materials as landfill, and dumping of trash, waste, or unsightly or offensive materials.
- (C) Removal or destruction of trees, shrubs, or other vegetation.
- (D) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface of the ground.
- (E) Any use that alters the natural condition of the land or water area.

- (F) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- (G) Any use that is detrimental to the retention of land or water areas.
- (H) Any use that is detrimental to the preservation of properties of historical, architectural, archaeological, or cultural significance.

Conservation easements are perpetual, undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the property, or in any order of taking. Such easements may be acquired in the same manner as other interests in property are acquired, except by condemnation or by the exercise of the power of eminent domain. They may be assigned to other governmental agencies, charitable organizations, or trusts authorized to acquire such easements. Conservation easements run with the land and are binding on all subsequent owners of the property. Conservation easements entitle holder to enter the land in a reasonable manner and at reasonable times to assure compliance with the purpose(s) of the easement. All conservation easements shall be recorded and indexed in the public records of Hardee County in the same manner as any other instrument affecting the title to real property.