

LAKE ALFRED UNIFIED LAND DEVELOPMENT CODE

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[RESERVED]

ARTICLE 5

RESOURCE PROTECTION STANDARDS

5.01.00 Development in Flood-Prone Areas

5.01.01 Administration

5.01.01.01 Title

These regulations shall be known as the Floodplain Management Regulations of the City of Lake Alfred, hereinafter referred to as “these regulations”.

5.01.01.02 Scope

The provisions of these regulations 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 tanks; placement of recreational vehicles; installation of swimming pools; and any other development. This section excludes those areas within the Green Swamp Area of Critical State Concern (GSACSC). For regulations regarding development in the floodplains in the GSACSC, refer to Section 5.07.00 of this Article.

5.01.01.03 Intent

The purpose of these regulations 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

5.01.01.04 Coordination with the Florida Building Code

These regulations are 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 these regulations 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. These regulations do 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 these regulations.

5.01.01.06 Disclaimer of Liability

These regulations shall not create liability on the part of the City of Lake Alfred or by any officer or employee thereof for any flood damage that results from reliance on these regulations or any administrative decision lawfully made there under.

5.01.02 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 these Regulations Apply

This ordinance shall apply to all flood hazard areas within the City of Lake Alfred, as established in Section 5.01.02.03 of these regulations.

5.01.02.03 Basis for Establishing Flood Hazard Areas

The Flood Insurance Study for Polk County, Florida and Incorporated Areas dated December 22, 2016 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 part of these regulations 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 Office of the City Clerk of Lake Alfred.

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 these regulations 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, 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 these regulations 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.

5.01.02.04 Other Laws

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

5.01.02.05 Abrogation and Greater Restrictions

These regulations supersede any ordinance or regulations 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 these regulations and any other ordinance or regulations, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by these regulations.

5.01.02.06 Interpretation

In the interpretation and application of these regulations, 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 appeal 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 or his/her Designee 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 these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations 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 these regulations without the granting of a variance pursuant to Section 5.01.07 of these regulations.

5.01.03.03 Application 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 these regulations;
- (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 when compliance with these regulations is demonstrated, or disapprove the same in the event of noncompliance;
- (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 these regulations; and
- (I) Serve notices of violation or stop work orders to owners of property, to the owner's agent, or to the person or persons performing work that is determined to be a violation, as authorized in Section 5.01.08.02.

5.01.03.04 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 of 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 these regulations is required.

5.01.03.05 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 these regulations.

5.01.03.06 Inspections

The Floodplain Administrator shall make the required inspections as specified in Section 5.01.06 of these regulations 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.

5.01.03.07 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 5.01.03.04 of these regulations;
- (B) 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);
- (C) 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 elevation, flood hazard area boundaries, or floodway designations; such submissions shall be made within six (6) months of such data becoming available;

- (D) Review required design certifications specified by these regulations and the Florida Building Code to determine that such certifications are complete;
- (E) Review elevation documentation submitted as required by these regulations and the Florida Building Code and inform the applicant of deficiencies within five (5) working days; and
- (F) Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Lake Alfred are modified.

5.01.03.08 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 these regulations and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letter 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 these regulations; 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 these regulations and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the office of the City Clerk of Lake Alfred.

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 these regulations, 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 these regulations 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 these regulations 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. Section 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 these regulations:

- (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 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.

- (l) 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:

- (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 5.01.05 of these regulations.
- (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.

5.01.04.04 Validity of Permit or Approval

The issuance of a floodplain development permit or approval pursuant to these regulations shall not be construed to be a permit for, or approval of, any violation of these regulations, the Florida Building Code, 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.

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 these regulations 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:

- (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) Federal permits and approvals

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 these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

- (A) 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.

- (B) Where base flood elevations, or floodway data are not included on the FIRM or the Flood Insurance Study, they shall be established in accordance with Section 5.01.05.02 (2) or (3) of these regulations.
- (C) 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 5.01.05.02(1) of these regulations.
- (D) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
- (E) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (F) 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.
- (G) 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 these regulations 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 these regulations.

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:

- (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 data and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - a. Require the applicant to include 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.
- (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.

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:

- (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 FEMA as specified in Section 5.01.05.04 of these regulations 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, a 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 (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.

- (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 5.01.05.04 of these regulations.

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 these regulations 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 these regulations 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:

- (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 5.01.05.02(3)(b) if these regulations, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

Failure to submit the certification or documentation of elevation of the lowest floor or to make required corrections indicated by the Floodplain Administrator's review of the information shall be cause to issue a stop-work order for the project in accordance with Section 5.01.08.02.

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 these regulations.

5.01.06.01.03 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 these regulations 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 Floodplain Administrator.

5.01.07 Variances and Appeals

5.01.07.01 General

The Board of Adjustments shall hear and decide on requests for appeals and requests for variances from the strict application of these regulations. Pursuant to Section 553.73(5), F.S., the Board of Adjustments 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 Board of Adjustments 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 these regulations. Any person aggrieved by the decision of the Board of Adjustments may appeal such decision to the Circuit Court, as provided by Florida Statutes.

5.01.07.03 Limitations on Authority to Grant Variances

The Board of Adjustments shall base its decisions on variances on technical justifications submitted by applicants, the considerations of issuance in Section 5.01.07.06 of these regulations, the conditions of issuance set forth in Section 5.01.07.07 of these regulations, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Board of Adjustments has the right to attach such conditions as it deems necessary to further the purposes and objectives of these regulations.

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 these regulations.

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 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 these regulations, provided the variance meets the requirements of Section 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 Board of Adjustments shall consider all technical evaluations, all relevant factors, and all other applicable provisions of the Florida Building Code, these regulations, 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;
- (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; and
- (K) The request for variance is not an after-the-fact request.

5.01.07.07 Conditions for Issuance of Variances

Variance 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 these regulations or the required elevation standards;
- (B) Determination by the Board of Adjustments 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; and
 - 3. 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 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 \$25 for \$100 of insurance coverage), and stating the 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 these regulations that are performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with these regulations, shall be deemed a violation of these regulations. A building or structure without the

documentation of elevation of the lowest floor, or other required design certifications, or other evidence of compliance required by these regulations 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 these regulations 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. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

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 provided in Section 5.01.08.04.

5.01.08.04 Penalties

Any person who violates the provisions of these floodplain management regulations shall be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment in the County Jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment. Each day during which the violation occurs shall constitute a separate offense.

5.01.09 Definitions

5.01.09.01 Scope

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

5.01.09.02 Terms Defined in the Florida Building Code

Where terms are not defined in these regulations 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 no Defined

Where terms are defined in these regulations or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

5.01.09.4 Definitions

Alteration of Watercourse: 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.

Appeal: a request for a review of the Floodplain Administrator's interpretation of any provision of these regulations.

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 1-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 sub grade (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 areas: [Also defined in FBC, B, Section 202.]

- (1) Area with a floodplain subject to a 1-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 buildings and structures for which the “start of construction” commenced before September 24, 2003. [Also defined in FBC, B, Section 202.]

Expansion to an Existing Manufactured Home Park or Subdivision: the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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 Material: 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 areas: [Also defined in FBC, B, Section 202]

- (1) The area within a floodplain subject to a 1-percent 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 these regulations (may be referred to as the Floodplain Manager).

Floodplain Development Permit or Approval: an official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with these regulations.

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 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 11 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:

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.

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 plan metric features.

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.

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.

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 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 FBC, B, Section 1612.2.]

Manufactured Home Park or Subdivision: a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market Value: the price at which the property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), 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 these regulations and the flood resistant construction requirements of the *Florida Building Code*, structures for which the “start of construction” commenced on or after September 24, 2003 and includes any subsequent improvements to such structures.

New Manufactured Home Parks or Subdivision: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 24, 2003.

Park Trailer: 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.]

Recreational Vehicle: a vehicle, including a park trailer, which is: [See Section 320.01, F.S.]

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) 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: an area in the floodplain subject to a 1-percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as

Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B, Section 202]

Start of Construction: the date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of 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 the 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 exceeds 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 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]

- (1) 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.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure’s continued designation as a historic structure.

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

Watercourse: a river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

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 these regulations, 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 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 5.01.10.07 of these regulations.

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:

- (A) Such proposals are consistent with the need to minimize flood damage and will 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.

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:

- (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 5.01.05.02(1) of these regulations;

- (C) Compliance with the site improvement and utilities requirements of Section 5.01.10.03 of these regulations; and
- (D) Each lot must include a site suitable for construction of a structure in conformity with the standards of these floodplain management regulations.

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:

- (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.

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 on-site 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 regarding, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 5.01.05.03(1) of these regulations 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 these regulations, 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 these regulations.

5.01.10.04.02 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 these regulations. . Foundations for manufactured homes subject to Section 5.01.10.04.04.02 of this ordinance are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

5.01.10.04.03 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.

5.01.10.04.04 Elevation

Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 5.01.10.04.04.01 or 5.01.10.04.04.02 of these regulations, as applicable.

5.01.10.04.04.01 General Elevation Requirement

Unless subject to the requirements of Section 5.01.10.04.04.02 of these regulations, 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).

5.01.10.04.04.02 Elevation Requirement for Certain Existing Manufactured Home Parks and Subdivisions

Manufactured homes that are not subject to Section 5.01.10.04.04.01 of these regulations, 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:

- (A) Bottom of the frame of the manufactured home is at or above the base flood elevation plus one (1) foot; or
- (B) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than thirty-six (36) inches in height above grade.

5.01.10.04.05 Enclosures

Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322.2 for such enclosed areas.

5.01.10.04.06 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 R322.2.

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:

- (A) Be on the site for fewer than 180 consecutive days; or
- (B) Be fully licensed and ready for highway use, which means the recreation 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 5.01.10.05.01 of these regulations for temporary placement shall meet the requirements of Section 5.01.10.04 of these regulations 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 5.01.10.06.03 of these regulations 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 or 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:

- (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.

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 these regulations or the Florida Building Code, shall:

- (A) Be located and constructed to minimize flood damage;
- (B) Meet the limitations of Section 5.01.10.03.04 of these regulations 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 or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of the 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 5.01.10.03.04 of these regulations.

5.01.10.07.03 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 5.01.10.03.04 (3) of these regulations.

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 the watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 5.01.10.03.04 of these regulations. Alteration of watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 5.01.05.03 of these regulations.

[RESERVED]

5.02.00 Potable Water Wellfield Protection from Hazardous Materials

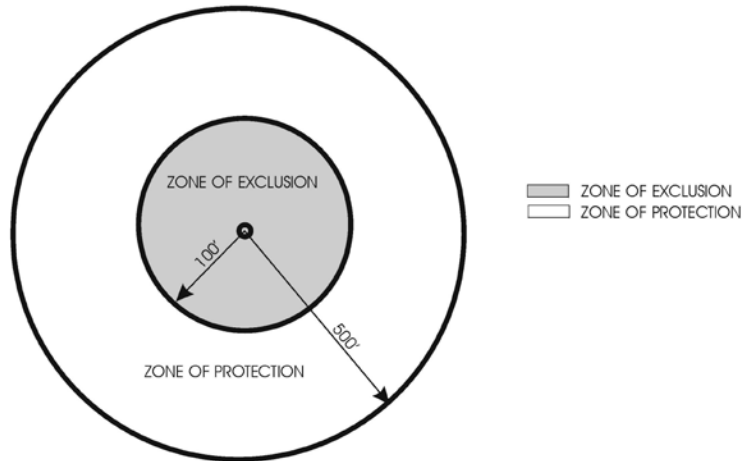
5.02.01 Purpose and Intent

The purpose and intent of this Section is to safeguard the health, safety and welfare of the citizens of Lake Alfred by providing for regulation of the storage, handling, use or production of hazardous substances within zones of protection 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 Wellfield Protection Zone

- (A) *Zone of Protection.* The Zone of Protection with a radius of 500 feet is hereby established around each of the City's public supply potable water wells, as provided in Infrastructure Policy 5.3 of the Comprehensive Plan. The City will keep an annually updated list of all uses that generate or store hazardous materials within 500 feet of every wellhead. Wellheads and wellhead protection areas shall be mapped on the Future Land Use Map of the Comprehensive Plan. Specifically, the map shall show the location of each well within the City, including all wells not currently within the City limits but part of the City's water system, and identify the 500 foot protection zone around each well. Wellhead protection areas shall be identified in order to prohibit development or the establishment of new uses from locating within the identified zone of protection that may be a potential source of pollution to the potable water system.

WELLHEAD PROTECTION AREA



- (B) *Zone of Exclusion.* A Zone of Exclusion with a radius of 100 feet is hereby established around each of the City's public supply potable water wells, as provided in Future Land Use Policy 2.13 of the Comprehensive Plan. It is the intent of the City to exclude uses that generate or store hazardous wastes from within a 100 foot radius of every potable water well, known as the zone of exclusion. The City further prohibits existing uses from being reestablished once the use has ceased that generate or store hazardous materials within the exclusionary zone.
- (C) Where a property lies partly outside the Zone of Protection, development standards contained in this Section shall apply only to that part of the property lying within the Zone. Where the Zone of Protection boundary passes through a building, the entire building shall be considered to be in the protection zone.
- (D) Development regulations provided in this Section shall be applicable to designated cones of influence for all municipal public supply wells. Prior to designation of, or in the absence of sufficient information to identify cones of influence, the City of Lake Alfred will utilize, as it becomes available, the most current data available from the water management district or any other government agency to identify the cone of influence around each well, in order to afford the most protection to the potable water supply. Upon receipt and evaluation of such data, the City shall use the data to update the Future Land Use Map series of the Comprehensive Plan of the City with respect to the wellhead protection areas.

5.02.03 Wellfield Protection Zone Permits

Except as otherwise provided, no person shall construct, modify, install or replace a hazardous substance storage system within a protection zone. Any such system existing prior to adoption of this Code shall require a wellfield protection permit as provided in this Section, and shall be subject to the containment standards in 5.02.04(D).

5.02.04 Wellfield Protection Restrictions

- (A) Unless otherwise provided in this Section, new non-residential use, handling, production or storage of hazardous substances shall be prohibited within the wellfield protection zone.
- (B) *Existing Activity.* Any person with existing non-residential activity shall have a period of one (1) year from the adoption of this Section to apply for a permit without a fee. Thereafter, said person shall be subject to the fee schedule adopted in connection with this Code.
- (C) *Exemptions.* The following activities or uses are exempt from the provisions of this Section:
 - (1) The transportation of any hazardous substance through the Zone of Protection.
 - (2) Agricultural uses, except that said uses shall comply with Chapter 487.011 et. seq., the Florida Pesticide Law and the Florida Pesticide Application Act of 1974 and Rule 5E-2.011 et seq. and Rule 5E-9.001 et seq., Florida Administrative Code.
 - (3) The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.
 - (4) Fire, police, emergency medical services, governmental emergency management center facilities, and public utilities.
 - (5) Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.
 - (6) Office uses, except for the storage, handling or use of hazardous substances.
 - (7) Repairing or maintaining any facility or improvement on lands within the Zone of Protection.

- (8) Storage tanks that are constructed and operated in accordance with the storage tanks regulations as set forth in Chapter 17-61, Florida Administrative Code.
 - (9) Geotechnical borings.
 - (10) Residential activities.
- (D) *Containment Standards.* Primary and secondary levels of containment shall be required for all new and previously existing hazardous materials storage systems, except those exempted under subsection 5.02.04(C) and those that are the object of modified requirements under Section 5.02.05. Containment standards shall apply to all areas of use, production, and handling; to all storage areas; and to above-ground and underground storage areas.
- (1) Primary Containment. All primary containment shall be product-tight.
 - (2) Secondary Containment. All secondary containment shall be:
 - a. Constructed of materials of sufficient thickness, density, and composition so as not to be structurally weakened as a result of contact with the discharged hazardous substances;
 - b. Equipped with leak-proof trays under containers, floor curbing or other containment systems to provide secondary liquid containment;
 - c. Adequate in capacity to handle 111 percent of the total volume of the container(s) in order to contain all spills, leaks, overflows, and precipitation until appropriate action can be taken;
 - d. Constructed of materials of sufficient strength to preclude loss of any hazardous substances to the external environment; and
 - e. Sheltered so that the intrusion of precipitation is inhibited.
- (E) *Monitoring Capacity.* All storage systems to which these regulations apply shall be designed with the capability of visually detecting that a hazardous substance stored in primary containment has entered secondary containment. Non-visual techniques may be approved by the City Commission where such techniques are proven to be reliable.
- (F) *Miscellaneous Requirements*
- (1) Devices or materials to absorb or contain the hazardous substances shall be available in sufficient supply so as to control and collect the total quantity of

hazardous substances on the site. To the degree feasible, emergency containers shall be present and of such capacity as to hold the total quantity of hazardous substances plus absorbent material.

- (2) Procedures shall be established by the applicant for periodic in-house inspection and maintenance of containment and emergency equipment. Such procedures shall be provided to the Chief Building Official in writing. A checklist and schedule of regular maintenance shall be established and a log shall be kept of inspections and maintenance. Such logs and records shall be kept available for inspection by the Chief Building Official.

5.02.05 Modification of Requirements

Any person affected by this Section may petition the City Commission for modification from the prohibitions 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.

5.02.06 Maintenance, Repair, or Replacement

- (A) *Modification or Repair.* Any modification or repair of a storage system, other than minor repairs or emergency repairs, shall be in accordance with plans to be submitted to the Chief Building Official and approved prior to the initiation of such work.
- (B) *Emergency Repairs.* A facility owner or operator may make emergency repairs to a storage system in advance of seeking an approval whenever an immediate repair is required to prevent or contain an unauthorized discharge or to protect the integrity of the containment.
- (C) *Replacement.* Replacement of any existing storage system for hazardous substances must be in accordance with the new installation standards.

5.02.07 Out-of-Service Storage Systems

- (A) *Systems Temporarily Out of Service.* Storage systems that are temporarily out of service, and are intended to be returned to use, shall continue to be monitored and inspected. Any storage system that is not being monitored and inspected in accordance with this Section shall be closed or removed in a manner approved by the Chief Building Official.
- (B) *Closure of Facilities.* Upon closure of a hazardous substance storage system for any reason, the facility owner or operator shall file an application with the Chief Building Official of intention to close the storage system. Said application shall be processed as provided in 5.02.03(A) of this Section. By signing the wellfield

protection permit application, the owner is held responsible to adhere to the closure procedures outlined in this Section. An application to close a hazardous substance storage facility shall include the following:

- (1) A schedule of events to complete the closure of this activity that does or did store, handle, use, or produce hazardous substances. As a minimum, the owner/applicant shall address the following:
 - a. Disposition of all hazardous substances and contaminated containers.
 - b. Cleanup of the activity and environs to preclude leaching of hazardous substances into the aquifer.
 - c. Certification by the Chief Building Official that disposal and cleanup have been completed in an acceptable manner. Certification may be waived if the applicant provides evidence to the Chief Building Official that all of the following conditions apply to the subject land use facility or activity:
 - 1) The entire operation is maintained inside the building(s) of the facility.
 - 2) The method of removing operating waste is not a septic tank, sewer main, or floor drain.
 - 3) There is no evidence of spills permeating floors or the environs.
 - 4) There are no outstanding or past notices of violation from any regulatory agency concerned with hazardous, industrial or special waste.
 - 5) There is no evidence of past contamination in the public drinking water well(s) associated with a facility located in the Zone of Protection.
 - 6) The applicant shall provide a sworn statement that disposal and cleanup have been completed in a manner acceptable to the Chief Building Official.
 - (2) The Chief Building Official shall inspect the facility to determine whether or not the requirements of this subsection have been met.
- (C) *Abandoned Systems.* Whenever an abandoned storage system is located, a plan for the closing or removing or upgrading and permitting of such storage system shall be filed by the owner of the property at a reasonable time as determined by

the Chief Building Official. Provided, however, such reasonable time for filing shall be not more than six (6) months.

5.02.08 Appeals

Determinations of the Chief Building Official may be appealed in writing within 30 days of said determination to the City Commission by the applicant. In not more than sixty (60) days the City Commission shall meet and rule to uphold, modify or reverse the determination of the Chief Building Official.

5.02.09 Fee Resolution

The City of Lake Alfred may, at its option, adopt a fee schedule by resolution to provide for the funding for the administration of this Section.

[RESERVED]

5.03.00 Wetlands Protection

5.03.01 Purpose and Intent

The Lake Alfred 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 Lake Alfred 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 Lake Alfred and their associated wetland ecosystems. It is further the purpose and intent of this Section to ensure that there be no net loss of wetlands as defined in this Code. This Section shall apply to all areas of wetlands within the jurisdictional boundaries of the City of Lake Alfred, except those areas within the Green Swamp Area of Critical State Concern (GSACSC). For regulations regarding development in the wetlands in the GSACSC, refer to Section 5.07.00 of this Article 5.

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 Department of Environmental Protection (DEP) as authorized by Section 403 of the Florida Statutes.
- (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 Southwest Florida Water Management District pursuant to Rule 40D-4, Florida Administrative Code.

- (4) Development requiring a permit or permits from one or more of the U.S. Army Corps of Engineers, DEP, and the Southwest Florida Water Management District (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 between wetlands and development. The purpose of the transitional zone is to minimize the adverse effects of development upon the wetland itself. This zone shall encompass all land within 200 feet of the boundary of the wetland protection zone unless the applicant is able demonstrate to the City Commission's satisfaction that the functions of the wetland can be protected with a smaller transitional zone. In no case, however, shall a transitional zone of less than thirty (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 Chief Building Official and obtaining from the City Commission 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) Nonmechanical clearing of vegetation from an area of less than 10 percent 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 (4) 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 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 Commission 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, Florida Administrative Code.
 - (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 twenty-five (25) feet and the average of all wetland buffers shall be forty (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 Commission 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 town. 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, Florida Statutes, and Section 5.06.00 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, Florida Statutes, the Surface Water Improvement and Management Act, and governmentally authorized mosquito control programs.

[RESERVED]

5.04.00 Lake Protection

5.04.01 Purpose and Intent

It is the purpose of this Section to maintain lake water quality and reduce nutrient loading in the lakes of the City of Lake Alfred. In order to achieve this, the following standards restrict the amount of clearing or removal of shoreline vegetation and require the most appropriate stormwater treatment technology. This Section shall apply to all lakes within the jurisdictional boundaries of the City of Lake Alfred, except those lakes within the Green Swamp Area of Critical State Concern (GSACSC). For regulations regarding development on lakeshores in the GSACSC, refer to Section 5.07.00 of this Article 5.

5.04.02 Relationship to Other Requirements Relating to Lake Protection

In addition to meeting the requirements of this Section, development plans shall comply with applicable Federal, State and water management district regulations. In all cases, the strictest of the applicable standards shall apply.

5.04.03 Shoreline Protection Zones Established

A Shoreline Protection Zone for all lakes in the City of Lake Alfred is hereby established. The Shoreline Protection Zone extends from the water's edge to a point fifty (50) feet landward of the Ordinary High Water Line.

5.04.04 Development Standards for Shoreline Protection Zones

All development in the Shoreline Protection Zone, including marinas, boat launching facilities and ramps, docks, piers, walkways and boat houses permitted in conformance with other applicable requirements of this Code, shall be designed, constructed and maintained to avoid adverse effects on the lakes of the City of Lake Alfred. In order to achieve this, all development proposed to be located in the Shoreline Protection Zone shall comply in all respects with the following requirements:

- (A) Existing development within the Shoreline Protection Zone shall not be expanded, added on to, or increased in any way unless it complies with all of the standards contained in this section.
- (B) To the maximum extent feasible, all natural drainage patterns shall be retained, and the amount of fill used in the development activity shall be kept at the absolute minimum to accommodate permitted development.
- (C) Point source and nonpoint source discharges into any lake are prohibited.

- (D) All development shall be designed, located, constructed and maintained in a manner that minimizes environmental damage.
- (E) All development shall be set back 50 feet from the Ordinary High Water Line.
- (F) The combined impervious surface of all permitted buildings, structures, walkways and paved areas on a site that includes any portion of the Shoreline Protection Zone shall not exceed forty (40) percent of the land area of the entire site.
- (G) Within the Shoreline Protection Zone, a minimum of fifty (50) percent of the natural vegetation shall be retained, maintained and protected.
- (H) If no natural vegetation exists, buffers shall be planted and maintained to maturity to achieve a minimum cover of forty (40) percent of the site within the Shoreline Protection Zone. Buffers may be linear or clustered and shall be composed of native plant species found growing in the vicinity of the site, or may be plants selected from the lists of species in Section 3.07.00.
- (I) The developer shall limit the removal of vegetation to the minimum necessary to carry out a permitted development activity, and shall expeditiously restore any portion of the Shoreline Protection Zone damaged or removed during construction by replanting native grasses and ground covers or appropriate substitutes.
- (J) The City Commission may require other reasonable protective measures to be undertaken within the Shoreline Protection Zone to prevent significant adverse effects on a lake. Protective measures may include, but are not limited to:
 - (1) Prior approval of any plan to dredge the lake bottom and dispose of spoil either on the site or at other locations.
 - (2) Prior approval of any plan to construct channels in a lake. In particular, such a plan shall demonstrate by design and other assurances how it will prevent slumping and erosion, and promote revegetation of underwater slopes and banks.

5.04.05 Activities Exempt from the Development Standards in the Shoreline Protection Zones

- (A) Emergency repairs to existing structures and facilities, where such repairs are necessary for the preservation of life, health, or property and are undertaken to promote the purposes of this Section.
- (B) Activities associated with maintenance of a structural stormwater or drainage control system, where such activities do not constitute major construction or rebuilding.

- (C) Mowing and maintenance of lawns and other vegetation that does not result in the prohibited clearance of shoreline vegetation.
- (D) Development of a "Wetlands Storm Water Discharge Facility" or a "Treatment Wetland" in accordance with State permits received under Chapters 17-25 and 17-6, Florida Administrative Code.
- (E) Utility crossings and the installation of underwater utility lines or facilities, including water, wastewater, electricity, communication cables, oil or gas. Lines may be entrenched in (not exceeding 10,000 cubic yards of dredging), laid on, or embedded in bottom waters.
- (F) Construction, replacement or widening of all types of permitted bridges.
- (G) Clearing of shoreline vegetation from the water's edge to the landward edge of the shoreline protection zone, to create a walking trail having no structural components, not to exceed four (4) feet in width.
- (H) Installation of channel markers and permitted signs and fences.
- (I) Bona fide mosquito control activities.
- (J) Scenic, historic, wildlife, or scientific preserves.

5.04.06 Clearing in the Lakes and in the Shoreline Protection Zone

- (A) A permit shall be required to clear any mature vegetation in the Shoreline Protection Zone, to clear more than ten (10) feet of shoreline, and for any clearing activity in a lake.
- (B) The Chief Building Official shall grant a permit when:
 - (1) An application is submitted and reviewed that demonstrates that the planned clearing is for a permitted purpose under this Code.
 - (2) The clearing will be conducted in accordance with the erosion control requirements of Section 5.05.01.
 - (3) The clearing includes a commitment to replant the are with varieties of vegetation that will not increase the nutrient levels in the lake above those existing at the time of the proposed clearing
 - (4) The clearing will not otherwise violate the intent and purpose of this Section.

- (C) All mechanically cleared or trimmed vegetation shall be removed from the lake and shoreline within twenty-four (24) hours of the conclusion of the clearing activities.

5.04.07 Mitigation

The City Commission may require mitigation of adverse impacts on the shoreline of lakes as a condition of development approval, if it finds that such impacts are unavoidable. In such cases, action may be taken during or after development to reduce or counteract damage to shoreline 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) Minimizing impacts by limiting the degree or magnitude of a development action in a particular area of a site.
- (B) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the project.
- (C) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (D) Compensating for the impact by replacing or providing substitute resources or environments through creation of new shoreline, enhancement of existing lakes or reestablishment of shoreline vegetation in the littoral zone.

A developer of a compensatory mitigation plan shall grant a conservation easement in accordance with Section 704.06, Florida Statutes, and Section 5.06.00 of this Code over the area that is the object of the mitigation plan. A legal mechanism other than a conservation easement may be considered, if appropriate, to carry out the purpose of this subsection.

5.04.08 Prohibited Ongoing Activities

The following standards apply to post-development activities taking place within any Shoreline Protection Zone.

- (A) Without an amendment to the development order, no person shall clear more vegetation than was permitted for the original development.
- (B) Developments where fuel or toxic substances will be stored, transferred, or sold shall employ the best available facilities and procedures for the prevention, containment, recovery, and mitigation of spillage of fuel and toxic substances. Facilities and procedures shall be designed to prevent substances from entering

the water or soil, and employ adequate means for prompt and effective clean-up of spills that do occur.

- (C) Fertilizers, herbicides, or pesticides shall not be applied in a primary shoreline protection zone except for projects conducted under the authority of Sections 373.451 - 373.4595, Florida Statutes, the Surface Water Improvement and Management Act, and mosquito control programs authorized by a government agency.

[RESERVED]

5.05.00 Erosion Control

5.05.01 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 town, 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.

[RESERVED]

5.06.00 Conservation Easements

As a condition for approval of a development permit or development order, or as part of a development agreement established under Section 6.02.00 of this Code, any person, corporation or entity owning property in the City of Lake Alfred 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 Polk County in the same manner as any other instrument affecting the title to real property.

[RESERVED]

5.07.00 Green Swamp Wetlands and Floodplains and Lakes

Pursuant to the Agreement between the City, the DCA and the County, development within the Green Swamp Area of Critical State Concern (GSACSC) is regulated by the Agreement. Further regulations are found in Article 3, Section 3.08.00.

- (A) There shall be no development within any wetlands or floodplain within the GSACSC.
- (B) The wetlands and floodplains within the Green Swamp ACSC are mapped so that the boundaries are clearly identifiable.
- (C) Within the Green Swamp ACSC there shall be a 50 foot buffer between all *wetlands* and structures. This buffer may be considered as part of a setback, but may not contain any structures of any kind, including accessory structures.
- (D) Within the Green Swamp ACSC there shall be a 50 foot buffer between all *floodplains* and structures. This buffer may be considered as part of a setback, but may not contain any structures of any kind, including accessory structures, and must be planted in native species.
- (E) Within the Green Swamp ACSC the 50 foot buffer shall be planted with native species, in order to encourage the establishment of wildlife habitat. This buffer shall be planted by the developer as a condition of the building permit, and shall be maintained by the home owner.
- (F) Within the Green Swamp ACSC there shall be a 50 foot buffer area from the water's edge to a point 50 feet landward of the Ordinary High Water Line, thus creating a 50 foot setback between lakeshore and structures, at a minimum. This buffer may be considered as part of a setback, and may not contain any structures or accessory structures, other than docks or elevated walkways as usually found along shorelines for lake access. See "Shoreline Protection Zone" text, section 5.04.03 of this Article for City-wide regulations.

[RESERVED]