

CHAPTER 10
ENVIRONMENTAL AND CULTURAL RESOURCE PROTECTION

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Chapter 10. Environmental and Cultural Resource Protection

Section 10.01. Wetland Resources

10.01.01. Purpose and Intent

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

10.01.02. Exempt Activities

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

- A. Construction of single-family residential units within existing, recorded subdivisions where adjoining street and drainage improvements have been constructed.
- B. Construction of hiking trails, walking paths, observation decks, and other similar facilities related to passive recreational activities.
- C. Manual clearing with hand tools of vegetation from an area of less than ten (10) percent of a wetland or required upland buffers adjacent to a wetland located on a single parcel. Utilizing this exemption does not relieve the applicant from meeting all applicable regulations listed in **Chapter 11**.
- D. Bona fide agricultural uses that follow best management practices established by the Florida Department of Agriculture and Consumer Services.
- E. Bona fide fire line control activities that follow best management practices established by the Florida Department of Agriculture and Consumer Services.
- F. Silviculture activities, which follow the best management practices, outlined in the publication entitled, "*Silviculture Best Management Practices Manual*", Florida Department of Agriculture and Consumer Services, Division of Forestry.
- G. Bona fide, approved, mosquito control activities conducted by a government-approved agency provided it is in strict conformity with the requirements as set forth in **Chapters 482 and 487, Florida Statutes, and Rules 5E-2 and 5E-9, Florida Administrative Code**.
- H. Utility facilities including crossings, easements, or rights-of-way that are related to generation, distribution, collection, transmission, or conveyance of the utility service to its customers.
- I. Custodial maintenance activities of stormwater management systems.
- J. Authorized activities with approved Florida Department of Environmental Protection, St. Johns River Water Management District, or US Army Corps of Engineers permit(s) for wetland restoration, enhancement, monitoring, or mitigation activities.
- K. The installation of driveways to single-family residential units within existing recorded subdivisions where wetland crossings provide the only physical or legal access point, and provided that the wetland crossing maintains the existing wetland hydrologic connections and that best management practices are in place during construction activities to minimize wetland impacts.

- L. Activities qualifying for and obtaining a Notice of General Permit through the joint environmental resource permitting application are considered *de minimis* alterations and not subject to the permitting or buffering requirements of this LDC.
- M. Wetland impacts associated with access to a permissible use or a linear project if an alternative analysis for avoidance and minimization has been approved. This exemption also applies to Florida Department of Transportation public transportation projects.
- N. Activities that qualify for and obtain a State Programmatic General Permit (federal authorization delegated to the state) are considered *de minimis* alterations and not subject to the permitting or buffering requirements of this LDC.
- O. Activities determined to be *de minimis* under the Florida Statutes.

10.01.03. Wetland Identification

A. Methodology

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

B. Exempt from Regulation

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

C. Qualifications for Wetland Delineation

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

10.01.04. Measures to Avoid or Minimize Wetland Impacts

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

10.01.05. Wetland Impact Report Required

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

Table 10 - 1: Wetland Impact Analysis Report Requirements

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

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

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

B. Category wetlands are described as follows:

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

10.01.06. Submittal Requirements for Wetland Impact Analysis Report

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

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

10.01.07. Permitted Activities and Requirements

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

10.01.08. Buffers

A. Natural Upland Buffers

A natural upland buffer, with an average width of fifty (50) feet, but no less than twenty-five (25) feet, shall be provided adjacent to and surrounding optimal wetlands; and a buffer with an average width of twenty-five (25) feet, but no less than fifteen (15) feet, shall be provided adjacent to moderate and minimal wetlands.

1. Upland buffers adjacent to wetlands shall consist of natural upland habitats that can provide for the various life functions of wetland dependent wildlife.
2. Upland buffers adjacent to wetlands shall not be altered except as exempted by **Subsection 10.01.02**. Wetland buffers shall be protected from erosion and sedimentation during construction activities.

B. Activities Permitted Within a Buffer

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

Section 10.02. Flood Damage Protection

10.02.01. Purpose

It is the purpose of this section to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas. The flood hazard areas of the City are subject to periodic inundation, which results in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. It is appropriate and conducive to the protection of the public health, safety, and welfare to enact the provisions of this section relating to real property located within the City that is flood prone or otherwise potentially subject to being damaged during flooding events.

10.02.02. Compliance

No structure in a special flood hazard area shall be constructed, located, extended, converted, or structurally altered, and no land shall be excavated or filled, without full compliance with the terms of this section and other applicable regulations.

10.02.03. Basis for Establishing the Areas of Special Flood Hazard

The special flood hazard areas identified by the Federal Environmental Management Agency in its Flood Insurance Study for Flagler County, dated July 17, 2006, and shown on the Flood Insurance Rate Maps, other supporting data such as base flood and maps and any subsequent revisions thereto, are adopted by reference and declared a part of this LDC. All such materials are hereby declared a part of this LDC and shall be applied in managing floodplains within the jurisdictional limits of the City. The Flood Insurance Study and Flood Insurance Rate Maps are on file at the offices of the City Clerk located in City Hall. The following table describes the special flood hazard zones.

Table 10 - 2: Special Flood Hazard Zones

Flood Zone	Description
A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
AE	Base flood elevations determined
AE Floodway	The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the one (1) percent annual chance flood can be carried without substantial increases in flood heights.
AH	Areas of 100-year shallow flooding; flood depths of one (1) to three (3) feet (usually areas of ponding); base flood elevations determined.
AO	Areas of 100-year shallow flooding; flood depths of one (1) to three (3) feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvia fan flooding, velocities also determined.
AR	Special flood hazard area formerly protected from the one (1) percent annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the one (1) percent annual chance or greater flood.
A1-A30	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
A99	Area to be protected from one (1) percent annual chance flood by a federal flood protection system under construction; no base flood elevations determined.
V	Areas of 100-year coastal flood; coastal flood zone with velocity hazard (wave action); no base flood elevations determined.
VE	Areas of 100-year coastal flood; coastal flood zone with velocity hazard (wave action); base flood elevations determined.
V1-V30	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined.

Source: Federal Environmental Management Agency’s (FEMA) Flood Insurance Rate Maps (FIRM)

10.02.04. Application Procedures for Development in Flood Hazard Zones

A. Permit Procedures

Application for a development order or building permit shall be made to the Land Use Administrator in accordance with **Chapter 2** for any development activities involving construction in a flood hazard zone. The application shall be filed on a form and contain such information as the Land Use Administrator shall require by administrative rule. In addition to the general application requirements in **Chapter 2**, the following specific information is required:

1. Application Stage

- a. Elevation in relation to mean sea level of the proposed lowest floor (including, but not limited to, basement) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data is available and the

elevation of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1-V30 or VE, or Zone V if base flood elevation data is available;

- b. Elevation in relation to mean sea level to which any new or substantially improved nonresidential building will be floodproofed;
- c. Certification by a Florida licensed professional engineer that a nonresidential floodproofed building will meet the floodproofing criteria in **Subsection 10.02.06.B**;
- d. Description of the extent to which any watercourse will be altered or relocated because of proposed development. Computations by a Florida licensed professional engineer shall be submitted to demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations, or other material required by the Federal Emergency Management Agency to revise the documents enumerated in **Subsection 10.02.03**, when notified by the Land Use Administrator, and must pay any fees or other costs assessed by the Federal Emergency Management Agency for this purpose. The applicant shall also provide technical data assuring that the conveyance capacity of the altered or relocated stream segment will be maintained; and
- e. The scaled plans shall show the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing.

B. Construction Stage

Upon placement of the lowest floor or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the Land Use Administrator a certification of the elevation of the lowest floor, floodproofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable. These documents shall contain an as-built survey in relation to mean sea level. Said certification, including certification for floodproofing, shall be prepared by or under the direct supervision of a registered land surveyor or Florida licensed professional engineer and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Land Use Administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

C. Duties and Responsibilities of the Land Use Administrator

Duties of the Land Use Administrator shall include, but not be limited to:

1. Advising permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known to be available, requiring that copies of such permits be provided and maintained on file.
2. Notifying adjacent communities and the Department of Community Affairs prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
3. Assuring that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

4. Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Land Use Administrator shall make the necessary interpretation.

10.02.05. Flood Hazard Reduction Regulations

The following provisions are required for all areas of special flood hazard:

- A. Manufactured homes and mobile homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces (see **Rule 15C, Florida Administrative Code**);
- B. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- C. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- D. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- E. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- H. Any alteration, repair, reconstruction, or substantial improvements to a structure that is not in compliance with the provisions of this section, shall meet the requirements of new construction as contained in this section; and
- I. Any alteration, repair, reconstruction, or improvements to a structure that is in noncompliance with the provisions of this section shall be undertaken only if said noncompliance is not furthered, extended, or replaced.

10.02.06. Areas with Determined Base Flood Elevations

A. Residential Construction

New construction or substantial improvement of any residential building shall have the lowest floor (including basement) and other structures and equipment including, but not limited to, electrical boxes, electrical outlets, water heaters, and propane gas tanks, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of **Subsection 10.02.06.C**.

B. Nonresidential Construction

1. New construction or substantial improvement of any nonresidential building shall have the lowest floor (including basement) and other equipment including, but not limited to, electrical

boxes, electrical outlets, water heaters, and propane gas tanks, elevated no lower than one (1) foot above the level of the base flood elevation.

2. Buildings located in all A-zones may be floodproofed in lieu of being elevated if all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and structural components are used that have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A Florida licensed professional engineer shall certify that the requirements of this section are satisfied.
3. Sufficient compensatory storage shall be provided to maintain predevelopment hydraulic conditions. Any reduction in the water-holding capacity of the floodplain caused by any structures or improvements to the land shall be compensated such that no increase in water surface elevation nor increase in peak discharge or velocity shall occur either upstream or downstream of the development site for all storm events up to and including the one hundred (100)-year storm.

C. Elevated Buildings

New construction or substantial improvements to elevated buildings, which include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, shall be designed to preclude finished living space. The foundation shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

1. Submissions for complying with this requirement shall be certified by a Florida licensed professional engineer and meet the following minimum criteria:
 - a. Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one (1) foot above grade; and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
2. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
3. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

D. Manufactured Homes/Mobile Homes and Recreational Vehicles

1. All manufactured homes/mobile homes placed or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, or in substantially improved manufactured home/mobile home parks or subdivisions, shall meet all the requirements for new construction including, but not limited to, elevation and anchoring.
2. All manufactured homes/mobile homes placed or substantially improved in an existing manufactured home/mobile home park or subdivision shall be elevated so that:
 - a. The lowest floor of the manufactured home/mobile home is elevated at a minimum of one (1) foot above the level of the base flood elevation.

- b. The manufactured home/mobile home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength and of no less than thirty-six (36) inches in height above grade.
 - c. The manufactured home/mobile home shall be securely anchored to the anchored foundation system to resist flotation, collapse, and lateral movement.
 - d. In an existing manufactured home/mobile home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, any manufactured home/mobile home placed or substantially improved shall meet the standards of **Subsections 10.02.06.D.2.a** and **10.02.06.D.2.c**.
3. All recreational vehicles placed on sites shall either:
- a. Be appropriately licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures; or
 - b. Be permanently installed meeting all of the requirements for new construction for manufactured homes/mobile homes including, but not limited to, anchoring and elevation requirements of **Subsection 10.02.06.D.1** or **Subsections 10.02.06.D.2.a** and **10.02.06.D.2.c**.

E. Critical Facilities

New critical facilities shall be directed and sited away from special flood hazard areas. A critical facility shall have at least one (1) access road connected to land outside the special flood hazard area that is capable of supporting a 4,000-pound vehicle. The top of the road shall be no lower than six (6) inches below base flood elevation.

F. Commercial Flood Insurance Rate Map Revisions

All subdivisions and commercial development proposals that impact floodway delineations or base flood elevations shall ensure that technical data reflecting such changes is submitted to the Federal Emergency Management Agency, with the City’s endorsement, for a conditional Flood Insurance Rate Map revision. These development proposals include, but are not limited to:

- 1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries.
- 2. Fill sites to be used for the placement of proposed structures.
- 3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts.
- 4. Determination of base flood elevations.
- 5. It is the responsibility of the applicant to have technical data prepared in a format required for a conditional Flood Insurance Rate Map revision and submitted to the Federal Emergency Management Agency.

10.02.07. Areas without Determined Base Flood Elevations

A. Elevation Above Adjacent Grade

Special flood hazard areas without base flood elevation and floodway data, new construction, and substantial improvements of existing structures, shall have the lowest floor of the lowest enclosed

area (including basement) and other structures and equipment including, but not limited to, electrical boxes, electrical outlets, water heaters, and propane gas tanks, elevated at a minimum of two (2) feet above the highest adjacent grade at building site.

B. Certification of Base Flood Elevation

New critical facilities constructed within a Special Flood Hazard Area without determined base flood elevation shall not be constructed unless base flood elevations are determined and certified data is provided from a Florida licensed professional engineer. The technical data shall be submitted to the Federal Emergency Management Agency with the City's endorsement for a Flood Insurance Rate Map revision consistent with the provisions of **Subsection 10.02.06 F**.

10.02.08. All Floodways and Streams

A. Floodways with Determined Base Flood Elevations

Located within special flood hazard areas are areas designated as floodways, which can be extremely hazardous due to the velocity of floodwaters, which carry debris, potential projectiles, and the potential for erosion. In floodways, the following provisions apply:

1. Encroachments into floodways including, but are not limited to, fill, new construction, substantial improvements, and other development is prohibited unless certification (by a Florida licensed professional engineer) is provided demonstrating that the encroachments will not result in any increase in flood levels during occurrence of the base flood discharge.
2. Manufactured homes (mobile homes) are prohibited in floodways except in an existing manufactured home/mobile home park or subdivision. A replacement manufactured home/mobile home may be placed on a lot in an existing manufactured home/mobile home park or subdivision if the requirements of **Subsection 10.02.06.D** are met.

B. Streams without Established Base Flood Elevation and/or Floodways

In special flood hazard areas where streams exist, but where no base flood data has been provided, or where base flood data has been provided without floodways, the following provisions apply:

1. Streams with no Base Flood Data

When base flood elevation data or floodway data have not been provided in accordance with **Subsection 10.02.03**, the Land Use Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source in order to administer the provisions herein. The technical data shall be submitted to the Federal Emergency Management Agency with the City's endorsement consistent with the provisions of **Subsection 10.02.06 F**.

2. Floodways or Streams not Depicted on FIRM

In special flood hazard areas with base flood elevations (Zones AE and A1-30), but without floodways depicted on the Flood Insurance Rate Map, no encroachment including, but not limited to, fill material or structures, shall be permitted, unless certification by a Florida licensed professional engineer is provided. This certification shall demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

3. There shall be a twenty-five (25) foot setback from the floodway to any proposed structures. Encroachments within the setback are prohibited including, but not limited to, fill material or structures, unless certification by a Florida licensed professional engineer is provided. The certification shall demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

10.02.09. Areas of Shallow Flooding (AO Zones)

Located within the special flood hazard areas are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

A. Residential Buildings

All new construction and substantial improvements of residential buildings shall have the lowest floor, including the basement, elevated to the depth number specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no depth number is specified, the lowest floor including, but not limited to, basements shall be elevated, at least two (2) feet above the highest adjacent grade.

B. Nonresidential Buildings

All new construction and substantial improvements of nonresidential buildings shall:

1. Have the lowest floor including, but not limited to, basements elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor including, but not limited to, basements shall be elevated at two (2) feet above the highest adjacent grade; or
2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

10.02.10. Coastal Velocity Hazard Areas (V Zones)

Located within the special flood hazard areas are areas designated as Coastal Velocity Hazard areas. These areas have special flood hazards associated with wave wash; therefore, the following provisions shall apply:

- A. All structures shall be located landward of the reach of the mean high tide;
- B. All structures shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than two (2) feet above the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Open lattice work or decorative screening may be permitted by the Land Use Administrator for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with **Subsection 10.02.10.G**;
- C. All pile and column foundations and structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Water loading values shall equal or exceed the base flood. Wind loading values shall be in accordance with the applicable provisions of this LDC;

- D. A Florida licensed professional engineer or Florida licensed architect shall certify that the design, specifications, and plans for construction comply with the provisions contained in this section;
- E. Using fill as structural support is prohibited. Noncompacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will not wash out from storm surge (thereby rendering the building free of obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The Land Use Administrator may approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by a Florida licensed engineer, Florida licensed architect, and/or qualified environmental professional, which demonstrates that the following factors have been complied with:
 - 1. Particle composition of fill material does not have a tendency for excessive natural compaction;
 - 2. Volume and distribution of fill will not cause wave deflection to adjacent properties; and
 - 3. Slope of fill will not cause wave run-up or ramping.
- F. Alteration of sand dunes or mangrove stands that would increase potential flood damage is prohibited;
- G. Lattice work or decorative screening may be permitted below the base flood elevation if they are not part of the structural support of the building and are designed so as to break away under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:
 - 1. No solid walls shall be allowed; and
 - 2. Material shall consist of lattice or mesh screening only.
- H. If aesthetic latticework or screening is utilized, such enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking and maintenance equipment used in connection with the premises;
- I. Any alteration, repair, reconstruction, or improvement to a structure shall not enclose the space below the lowest floor except with latticework or decorative screening; and
- J. The placement of manufactured homes and mobile homes is prohibited, except in an existing manufactured home or mobile home park or subdivision. A replacement manufactured home or mobile home may be placed on a lot in an existing manufactured home park or subdivision provided the standards **Subsection 10.02.06** are met.

10.02.11. Subdivisions

Subdivisions shall comply with the following provisions:

- A. All subdivisions shall be designed to minimize flood damage including, but not limited to, compensatory storage, and the avoidance or minimization of disruption to shorelines, stream channels, and their banks.
- B. All subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- C. All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- D. Base flood elevation data shall be provided for subdivisions and other proposed development (including, but not limited to, manufactured home parks and subdivisions).

- E.** New road construction within subdivisions and future site development within subdivisions shall be designed so that the elevation, at the crown of the road, is equal to or above the base flood elevation.
- F.** Any reduction in the water-holding capacity of the floodplain caused by development or improvements to the land shall be compensated so that there is no increase in water surface elevation or in peak discharge or velocity either upstream or downstream of the development site for all storm events up to, and including, the one hundred (100)-year storm.
- G.** All proposed subdivisions and developments that impact floodway delineations or base flood elevations shall ensure that technical data reflecting such changes are submitted to the Federal Emergency Management Agency, with the City's endorsement, for a conditional Flood Insurance Rate Map revision consistent with the provisions of **Subsection 10.02.06.F.**

10.02.12. Variances

A. Procedure

The procedure for applying for a variance from this section shall be processed in accordance with **Chapter 2.**

B. Variance Criteria

When reviewing a variance from the provisions of this section, the Planning and Land Development Regulation Board shall consider the following criteria and the criteria contained in **Chapter 2** for variances:

1. General Criteria

- a.** The variance is the minimum necessary, considering the flood hazard, to afford relief; and
- b.** Granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

2. Other Considerations

- a.** The danger that materials may be swept onto other lands to the injury of others;
- b.** The danger to life and property due to flooding or erosion damage;
- c.** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d.** The importance of the services provided by the proposed facility to the community;
- e.** The necessity of the facility to be located on the waterfront location;
- f.** The availability of alternative locations, not subject to flooding or erosion damage, for the proposed facility;
- g.** The compatibility of the proposed facility with existing and anticipated development;
- h.** The relationship of the proposed facility to the Comprehensive Plan and floodplain management program for that area;
- i.** The safety of access to the property in times of flood for ordinary and emergency vehicles;

- j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site;
- k. The costs of providing governmental services during and after flood conditions including, but not limited to, maintenance and repair of public utilities and facilities (such as sewer, gas, electrical and water systems) and streets and bridges; and
- l. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.

3. Historic Structures

A variance may be granted for the repair or rehabilitation of a historic structure if the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

4. Variance Approval

Upon consideration of the factors listed above and the purposes of this section, conditions may be placed upon the granting of variances to further the purposes of this section.

Any development order granting a variance shall specify the difference between the base flood elevation and the elevation to which the building is to be built and state that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. In no event shall variances be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

10.02.13. Warning and Disclaimer of Liability

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

Section 10.03. Wellfield Protection

10.03.01. Purpose and Intent

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

10.03.02. Wellhead Protection Zones and Interpretation

The regulations set forth in this section shall apply to all lands surrounding an existing public water supply well designated as the primary and secondary protection zone(s) as defined in this section.

This regulation shall apply to all proposed public water supply wells if the specific location has been identified and the public or private entity owns the well site.

A. Wellhead Location Map

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

B. Protection Zones

1. Primary Wellhead Protection Zone

Shall be circular with a fixed five hundred (500) foot radial setback distance around the wellhead and shall include the surface and subsurface area surrounding the wellhead.

2. Secondary Wellhead Protection Zone

Shall be an area delineated around the favorable potable water production areas for the Floridan and intermediate aquifer as depicted on the “Wellhead Protection Zone Map” on file at the office of the City Clerk.

C. Interpretation of Zone Designation

To determine applicable protection measures for properties and buildings within the primary or secondary wellhead protection zone, the following rules shall apply:

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

10.03.03. Exemptions and Provisional Exemptions

A. Exemptions

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

1. Fire, police, emergency medical services, emergency, and management facilities.
2. Essential utility services and facilities provided that wellhead setback requirements are in accordance with applicable federal and state law.
3. The transportation of any hazardous substance if the transporting vehicle is in continuous transit and meets all applicable federal, state, and City requirements.
4. Retail/wholesale establishments that store or handle an unlimited amount of regulated substances for resale provided:
 - a. The regulated substances are handled, stored, and sold indoors.

- b. The regulated substances are stored and sold in their original unopened containers.
- 5. Residential activities including the use of commonly used regulated substances for cleaning, maintenance, pool service, pest control, or any other lawful residential use activity except for underground storage of regulated substances.
- 6. Commercial products used at a facility solely for janitorial or minor maintenance purposes.
- 7. Outdoor recreational activities and facilities including nature and bike paths, conservation areas, and passive and recreational parks that do not involve the storage of regulated substances.

B. Provisional Exemptions

The following activities are exempt, if in compliance with requirements as stated:

- 1. The use of any hazardous substance or lubricants in lawn maintenance equipment, if extreme care is taken to prevent spillage or discharging fuels and lubricants onto soils, groundwater, or surface water.
- 2. Agricultural uses, except that said uses shall comply with the latest version of the Florida Department of Agricultural and Consumer Services and Florida Department of Environmental Protection Best Management Practices for Agrichemical Handling and Farm Equipment Maintenance. In addition, silviculture operations shall conform to the Florida Department of Agricultural and Consumer Services Silviculture Best Management Practices, 1993, as amended from time to time. Alternative best management practices may be substituted with prior written approval by the City.
- 3. Construction activities, if all contractors, subcontractors, laborers, and their employees, when using, handling, storing, or producing regulated substances, adhere to the City’s applicable best management practices.
- 4. The application of pesticides, herbicides, fungicides, and rodenticides in recreation, agriculture, pest control and aquatic weed control activities if:
 - a. The application is in strict conformity with the use requirement as is indicated on the containers in which the substances are sold;
 - b. The application is in strict conformity with the requirements as set forth in the Florida Statutes and the Florida Administrative Code; and
 - c. The City is notified at least forty-eight (48) hours prior to the application within the primary wellhead protection zone.
- 5. New golf courses, if compliance is demonstrated by submitting to the City a written best management practices plan subject to approval by the Land Use Administrator and, which at a minimum, conforms with the Florida Department of Environmental Protection May, 1995 Best Management Practices for Golf Course Maintenance Departments and the City’s groundwater protection prevention measures for secondary wellhead protection zones. New and existing golf courses shall comply with **Subsection 10.03.06** herein.

10.03.04. Regulated Substances and Facilities

A. Regulated Substances

The following substances are regulated by this section:

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

B. Regulated Facilities

1. Any new nonresidential use, handling, production, or storage of regulated substances found in quantities greater than the following shall be considered a regulated facility:
 - a. When the aggregate sum or a single regulated substance present on a single parcel or building exceeds one hundred ten (110) gallons underground; and
 - b. Five hundred fifty (550) gallons aboveground if the substance is a liquid or 1,100 pounds if a solid.
2. Any existing nonresidential use, handling, production, or storage of regulated substances is lawful and shall be considered a nonconforming activity:
 - a. When the aggregate sum or a single regulated substance present on a single parcel or building exceeds one hundred ten (110) gallons underground; and
 - b. Five hundred fifty (550) gallons aboveground if the substance is a liquid or 1,100 pounds if a solid.
3. Facilities listed in **Subsection 10.03.05** herein are regulated facilities.

10.03.05. Restrictions within Wellhead Protection Zones

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

A. Secondary Wellhead Protection Zone

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

1. New Class I, II, and V underground injection control wells, as regulated in the Florida Administrative Code, except for aquifer storage and recovery system wells or other necessary potable water drinking facilities injection wells as permitted by the appropriate state agency.
2. New or expanded landfills, as defined by the Florida Administrative Code.

3. New discharges to groundwater of industrial wastewater as regulated under the Florida Administrative Code.
4. New septic tank systems.
5. Prohibitions as specified under the City's Groundwater Protection Preventative Measures.

B. Primary Wellhead Protection Zone

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

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

1. New underground storage of regulated substances.
2. Existing small quantity generators and conditionally exempt small quantity generator of hazardous waste, as regulated under the Florida Administrative Code, shall comply with the secondary containment requirements of 40 Code of Federal Regulations Part 264 Subpart I (1994), as amended, hereby incorporated by reference. New small quantity generator and conditionally exempt small quantity generator activities shall be prohibited within a five hundred (500) foot radial setback from any well.
3. New large quantity generators of hazardous waste as regulated under the Florida Administrative Code.
4. New hazardous waste, treatment, storage, disposal, and transfer facilities requiring permits under the Florida Administrative Code.
5. New soil treatment facilities as regulated under the Florida Administrative Code.
6. New above ground storage tanks regulated under the Florida Administrative Code. Replacement of an existing above ground storage tank of the same or less capacity is exempt from this provision if the replacement tank system is installed with secondary containment and maintained as required in the Florida Administrative Code.
7. New underground storage tanks regulated under the Florida Administrative Code. Replacement of an existing underground storage tank of the same or less capacity is exempt from this provision if the replacement tank system is installed and maintained as required in the Florida Administrative Code.
8. New mineral acid above ground storage tanks as regulated under the Florida Administrative Code.
9. New industrial wastewater treatment facilities.
10. Vehicular and washing facilities provided the facility establishes reclaimed and reuse practices for the water supply.
11. Motor vehicle repair facilities.
12. Outside storage of equipment, tools, or other possessions that may have the potential to discharge regulated substances or adequate best management practices are utilized to prevent such discharges.

13. New cemeteries.

14. Parking areas, unless:

- a. Impervious with adequate stormwater design to a location outside of the zone.
- b. Florida Department of Transportation Standard Type D raised curb is used.
- c. Other means of advanced water quality treatment are provided.

10.03.06. Permits, Applications, and Administrative Process

A. Permit Requirements

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

B. Application Procedure

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

C. Permit Conditions

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

D. Alterations and Expansion

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

10.03.07. Facility Inspections

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

A. Administrative Inspection Warrant

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

B. Vacant or Abandoned Properties

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

10.03.08. Variances

A. Variance Criteria

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

1. Substances or chemicals utilized that may impact groundwater resources if not properly managed;
2. Proposed containment/management of substances or chemicals;
3. Spill prevention and emergency response plans;
4. Emergency collection devices and equipment maintenance programs;
5. Monitoring plans and inspection procedures;
6. Spill reporting procedures;
7. Groundwater and/or soil monitoring programs;
8. Hydrological data that may include, upon City request, capture zone analysis, groundwater flow contours, and other hydraulic characteristics of the aquifer;
9. Distance from public supply well(s) and applicable wellhead protection zone(s);
10. Other factors, as applicable to groundwater protection issues.

B. Variance Application Requirements

In addition to the requirements stated in **Chapter 2** for variance applications and review procedures, the following additional requirements shall apply to variances from this section:

1. The application shall be signed by the applicant and a licensed professional engineer or professional geologist licensed in the state of Florida;
2. The application shall include:
 - a. A hydrogeologic assessment of the site, which shall address, at a minimum, soil characteristics, groundwater levels, groundwater directional flow, distance from wellhead, and existing groundwater quality;
 - b. A technical report to demonstrate that adequate technology, practices, or other controls exist to isolate the facility or activity from the potable water supply in the event of a spill;

- c. A discussion and documentation, such as published reports, technical articles, substantiating sufficient performance, and reliability of a proposed technology or system. Include discussion of maintenance and procedures to be utilized if system fails; and
 - d. Site-specific applicable groundwater protection best management practices procedures to ensure the protection of groundwater resources.
3. The Land Use Administrator may require additional information based on the type of land use activity proposed, chemicals utilized, distance from wellheads, or other applicable information needed to evaluate the application.
 4. The City may add any appropriate conditions and safeguards necessary to protect groundwater resources pursuant to such special exemptions.

Section 10.04. Endangered and Threatened Species and Species of Special Concern

10.04.01. Purpose and Intent

The purpose of this section is to protect the natural resources of the City for the benefit of its citizens by preventing the destruction of listed plant and animal species in the City. The City shall take all reasonable steps to ensure that all development related activities do not result in the harming, pursuit, or harassment of wildlife species classified as endangered, threatened, or a species of special concern listed by the federal or state government. Those endangered and threatened wildlife species and wildlife species of special concern with the potential to exist within the City are determined by the United States Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, the Florida Natural Areas Inventory, and Florida Committee on Rare and Endangered Plants and Animals publications. The City shall protect endangered and threatened species through the regulatory authority of Florida Department of Environmental Protection, St. Johns River Water Management District, Florida Fish and Wildlife Conservation Commission, and the United States Fish and Wildlife Service, as mandated by the Federal Endangered Species Act of 1973 and the Florida Endangered and Threatened Species Act of 1977, and other applicable laws, rules, and regulations.

10.04.02. Applicability

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

10.04.03. Listed Species Protection Application and Study

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

A. Applicability

All applications for preliminary plats or site plans shall include a listed species study. The listed species study shall be completed by a qualified environmental professional. The listed species study, after deemed complete by the Land Use Administrator, shall be acceptable for one (1) year for the property that was investigated. The listed species study shall include appropriate field

investigation and associated exhibits prepared in accordance with an application form adopted by administrative rule issued by the Land Use Administrator.

B. Management plan

Where listed species evidence is found, the listed species study shall include a management plan. The management plan shall address the approach to be used in protecting the species or shall include an authorized permit from the appropriate federal or state agency. The adequacy of this approach shall be evaluated based on the following:

1. The specific guidelines and regulations of the Florida Fish and Wildlife Conservation Commission or the United States Fish and Wildlife Service for species.
2. The dedication as a conservation easement of any approved areas preserved for listed species protection.
3. The connection of conservation easements on the subject development property to any such conservation easements on adjoining properties and/or to any designated wildlife corridor unless the applicant demonstrates to the satisfaction of the Land Use Administrator that such connection is impractical in the use of the subject property.
4. The property owner shall be responsible for relocating gopher tortoises on site or other suitable locations as approved by the Florida Fish and Wildlife Conservation Commission.

10.04.04. Listed Species Protection during Construction Activities

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

Section 10.05. Cultural and Historic Resources

10.05.01. Purpose and Intent

The purpose of this section is to protect the significant historic and archaeological resources of the City to the maximum extent feasible, by providing procedures for the review of plans and development projects as well as standards for the protection of these important resources.

10.05.02. Lands Not Subject to Cultural Resource Survey

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

10.05.03. Lands Subject to Cultural Resource Investigation

A cultural resource investigation shall be accomplished before the issuance of a development order or permit or prior to the commencement of construction activities, or any other physical disturbance of land that:

- A.** Takes place within a parcel that has not been previously investigated for cultural resources.
- B.** Takes place within a parcel that contains a site that is listed in the Florida Master Site File as “significant” or as “potentially significant” requiring further investigation.
- C.** Takes place within a recently discovered site that has not yet been entered into the Florida Master Site File.

10.05.04. Professional Qualifications and Survey Requirements

A. Professional Qualification

Cultural resource professionals are certified archaeologists that meet the qualification in "The Secretary of the Interior's Historic Preservation Professional Qualification Standards" (Federal Register Vol. 62, No. 119, p. 33707).

B. Cultural Resources Survey and Assessment

Cultural resource assessment surveys and related reports shall follow the guidelines of the Florida Division of Historical Resources, Department of State, and the requirements of all applicable Florida Statutes. Prior to the issuance of a development order or permit or prior to the commencement of construction activities, a copy of a survey clearance letter issued by the Compliance Review Section, Division of Historical Resources, or other documentation by the state historic preservation officer, shall be submitted to the City. Management recommendations regarding the protection, preservation, or mitigation of impact of historical or archaeological sites, in concurrence with the Division of Historical Resources should be followed. In addition, copies of Florida Master Site File forms generated during the cultural resource assessment study for the Division of Historical Resources shall be submitted to the City for their records. An initial site investigation may be utilized to determine cultural resource site probability for lands requiring a cultural resource investigation as approved by a certified archaeologist utilizing necessary criteria in accordance with state law to determine cultural resource site probabilities. Said criteria include, but are not limited to, historical data, soil types, and site elevations. The following may substitute for a cultural resource site survey and assessment if certified by a certified archaeologist in writing to the Land Use Administrator:

- 1.** A determination that subject property has a low probability of yielding cultural resources.
- 2.** A determination that proposed development activities will have no effect on cultural resources listed or eligible for listing in the National Register of Historic Places.

3. A determination that proposed development activities will have no effect on cultural resource value under federal and state requirements.

10.05.05. Property Containing Potential and Significant Cultural Resource Sites

If property is determined to have a potentially significant or a significant cultural resource in areas proposed for development, the City shall adhere to the recommendations of the state historic preservation officer and shall require the applicant to do one (1) or more of the following prior to the issuance of a development order or permit:

- A. Preserve cultural resources within the open space of the development.
- B. Redesign the development to accommodate preservation of all or a portion of the site containing the cultural resource.
- C. The property owner may voluntarily fund or seek funding for excavation of the resource, if agreed to by the Florida Department of Historical Resources.

10.05.06. Fortuitous Finds and Unmarked Human Burials

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

A. Evidence of the Existence of Cultural Resources

If evidence of the existence of cultural resources is discovered or observed at development sites or during development activities after final approval, permits, or issuances of development orders, all work shall cease in the area of effect. The developer, owner, contractor, or agent thereof shall immediately notify a professional archaeologist and the City. Examples of such evidence include whole or fragmentary stone tools, shell tools, aboriginal or historic pottery, bone tools, historic building foundations, shell mounds, shell middens, or sand mounds. A professional archaeologist selected and hired by the applicant, shall assess the significance of the finds and, if warranted, notify the Florida Department of Historical Resources in accordance with federal and state requirements. A report or letter shall be submitted to the City from a professional archaeologist and, if warranted, a copy of a clearance letter from the state historic preservation officer indicating that the proposed development will have no effect on cultural resources listed or eligible for listing in the National Register of Historic Places, or otherwise of historical, architectural, or archaeological value.

B. Discovery of Human Skeletal Remains

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