

CHAPTER 89 – ENVIRONMENTAL REGULATIONS

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SECTION 1. INTRODUCTION

1.1. Purpose and Intent

- A. This Chapter shall define implementing regulations for environmental topics contained in the City's Comprehensive Plan. These topics include open space use and conservation, wildlife and habitat protection, wetland protection, mining impact considerations, coastal waterway management and protection, coastal high hazard development considerations, and conservation building design and development considerations.

SECTION 2. ENVIRONMENTAL STANDARDS

2.1. Open Space

- A. **Applicability.** Open space is defined in the Comprehensive Plan as either functional or conservation open space and applies to Planned Districts only or as may be required under Chapter 87. The Planned District regulations (see Chapter 87, Section 2.2.4.) define the required amount of each type of open space for each Planned District. This section provides further clarification on the types of uses or activities that qualify for each open space type.
- B. **Functional Open Space.** Specific uses that are permitted in functional open space areas include:
 - 1. Recreation areas including designated parks, dog parks, playgrounds, golf courses, sports facilities and fields.
 - 2. Club houses and amenity centers including plazas and courtyards.
 - 3. Walking trails, bikeways, and pedestrian ways.
 - 4. Swimming pools.
 - 5. Water bodies having designated active recreational uses.
- C. **Conservation Open Space.** The following uses qualify as conservation open space:
 - 1. Landscape buffers.
 - 2. Dry stormwater and retention areas.
 - 3. Stormwater management areas, wetlands, and other bodies of water included in the development, not including any associated walking or hiking trails.
 - 4. Conservation easements.
 - 5. Undeveloped utility easements greater than twenty-five (25) feet in width.
 - 6. Undisturbed native habitat.
- D. **Conservation Open Space Standards.**

1. Conservation open space shall be consistent with the landscaping and compatibility buffers of the Land Development Code (“LDC”).
2. Existing native habitats shall be used whenever possible to fulfill conservation open space requirements.
3. Where appropriate, conservation open space areas shall maintain connectivity through and between preserved native habitat areas, landscape areas, and wildlife corridors. An analysis of surrounding properties for Planned Districts shall be provided to identify and provide connectivity to adjoining habitat, buffers, and wildlife corridors.
4. Conservation open space areas must be designed to incorporate as many existing large native trees and tree clusters as possible consistent with tree preservation regulations in this Chapter.

2.2. Wildlife and Habitat Protection Assessment

- A. **Applicability.** A Wildlife and Habitat Protection Assessment (WHPA) shall be required for all development petitions that include new development of areas larger than five (5) acres. This assessment shall be included in the binding master plans for rezoning to Planned Districts, as well as the applications for preliminary plats and site and development plans. The objective of this assessment is to identify, if applicable, any impacts of development on unique habitats and protected, endangered, or threatened species. Where a project has completed a WHPA through prior petitions or applications, the date of the WHPA is not older than one (1) year, and the conditions of the subject properties have not changed, a new WHPA shall not be required.
- B. **WHPA Requirements.** The WHPA shall be prepared by an environmental professional. To qualify as an environmental professional, the preparer of the WHPA shall have a minimum of one of the following: (a) Degree in wildlife biology/ecology, (b) Certification by the Wildlife Society; or (c) be an Authorized or Registered agent by the Florida Fish and Wildlife Conservation Commission (FWC). The WHPA shall contain, at minimum:
 1. Date(s) of assessment.
 2. Name of individual or organization conducting the assessment.
 3. Qualifications of the environmental professional(s) conducting the assessment.
 4. A brief statement of the methodology used to conduct the assessment.
 5. A map of land use and land cover classifications on the site using a classification system described in one (1) of the following publications:
 - a. Land Use, Cover and Forms Classification System: A Technical Manual. State of Florida, Department of Transportation, May 1981 (Preferred); or
 - b. The Florida Land Use and Cover Classification System; A Technical Report. State of Florida, Department of Administration, April 1976;

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6. A list of species observed on the site.
7. Locations of any Heritage, Venetian or existing native tree clusters.
8. A map showing: the exact location and an assessment of any native or unique habitats, including habitat of threatened or endangered species; threatened, endangered, or other protected species encountered on the site; and any evidence of habitation of areas on the site by such species discovered during the field review.
9. A habitat management plan describing any measures which are proposed by the applicant for non-disturbance, species relocation, or other mitigation measures regarding the protection of any threatened or endangered species found on the site.

2.3. Unique Habitats and Protected Species

- A. Purpose and Intent.** The City recognizes the importance of identifying and maintaining habitats unique to the City and Florida. Unique habitats shall be protected and maintained in accordance with this Chapter, the LDC, and the Comprehensive Plan. Additionally, it is important to identify and provide mitigation from development when certain protected species and their habitats are identified on the site.
- B. Types of Unique Habitats.** The following unique habitats have been identified for protection in the Comprehensive Plan and shall be protected as required in this Chapter.
 1. Marine Habitats.
 2. Manatee Habitat Protection Zones.
 3. Marine Turtle Habitats.
 4. Beach and Dune Habitats.
 5. Florida Scrub Jay, Gopher Tortoise, and Other Protected Species Habitats.
 6. Threatened, Endangered Species, or Other Protected Species Habitats.
 7. Mangroves.
- C. Development Standards.** If a WHPA or any development application identifies that unique habitats or protected species are located on the property, the following protection methods are required:
 1. Impact to unique habitats and protected species shall be avoided whenever possible. When impact is unavoidable, the application shall document the reasons why. Development documents shall include language detailing how the habitat will be preserved and maintained and shall reference best management practices for their maintenance.
 2. Where the preservation of habitat will be compromised by the removal of invasive species, a design alternative may be proposed to maintain the invasive species to the extent necessary to protect such habitat.

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3. Applicable mitigation shall be required for State and/or Federally protected habitats and protected in compliance with the latest State/Federal regulatory standards in place at the time of the proposed impact.
 4. Unique habitats shall be clearly marked using silt barrier fencing or similar fencing protection to ensure the undisturbed protection of the unique habitat during construction activities on the site. Unique habitats occupied by Threatened, Endangered, or Other Protected Species may warrant a more restrictive buffer area defined and regulated by the USFWS or FWC.
- D. Resource Management Plan Required.** For proposed development of property containing five (5) or fewer acres, a resource management plan shall be required for review and approval by the City prior to a site and development plan or preliminary plat. The applicant shall pay for and have a resource management plan prepared by an environmental professional. The resource management plan shall contain at a minimum:
1. Responsible party information for who will be maintaining the habitat;
 2. List of prohibited actions including items such as excavation, alteration, and removal of unique or native vegetation;
 3. Identification of permitted activities within habitat areas;
 4. Best practice methods to be implemented to protect the unique habitat, protected species, or native species and the integrity of these areas;
 5. An assessment of each habitat type to include a list of existing vegetation and percent coverage of exotics or invasive species; and
 6. A plan for monitoring reports for maintaining unique habitats that shall be conducted annually and made available to the City upon request.

2.4. Specific Marine Turtle Protection Regulations

- A. Purpose and Intent.** In addition to any requirements for protected species, the purpose of this section is to protect threatened and endangered marine turtles that nest along the beaches of the City by safeguarding nesting and hatchling marine turtles from the adverse effects of artificial light and from injury or harassment, and by prohibiting activities disruptive to marine turtles.
- B. Civil and Administrative Enforcement Powers; Criminal Penalties.**
1. The City shall have the power to enforce the provisions of this section by administrative proceedings, including code enforcement proceedings in accordance with Chapter 2, Article VI of the City Code of Ordinances, and by equitable or legal judicial proceedings. Each day of any such violation shall constitute a separate and distinct offense.

2. A violation of any of the provisions of this section shall be punishable as a misdemeanor of the second degree and subject to the penalty provided by F.S. § 772.082 and the fine provided by F.S. § 775.083. Each day of any such violation shall constitute a separate and distinct offense.
3. No permit shall be issued by the City for any project or property which is in violation of this section or for which a fine imposed in accordance with this section remains unpaid.

C. Lighting Standards for New Development.

1. In order to provide the highest level of protection for nesting marine turtles and their hatchlings, the following standards (in addition to any standards set forth in the LDC) are adopted for artificial light sources on all new coastal construction:
 - a. Exterior artificial light fixtures shall be designed and positioned so that:
 - i. The point source of light or any reflective surface of the light fixture is not directly visible from the beach.
 - ii. Areas seaward of the frontal dune are not directly, indirectly or cumulatively illuminated.
2. Exterior artificial light fixtures within direct line-of-sight of a beach that is a protected marine turtle nesting site are considered appropriately designed if:
 - a. Completely shielded downlight-only fixtures or recessed fixtures having low wattage bulbs and nonreflective interior surfaces are used. These fixtures must have LPS, LED or true red neon light sources. Other fixtures that have appropriate shields, louvers, or cut-off features may also be used if they are in compliance with subsection C.1.a., above or approved by FWC; and
 - b. All fixtures are mounted as low in elevation as possible through use of low-mounted wall fixtures, step lights, low bollards, low-profile luminaires and ground level fixtures.
3. Floodlights, up-lights or spotlights for decorative, recreational and accent purposes that are directly or indirectly visible from the beach, or which directly, indirectly or cumulatively illuminate the beach, are prohibited.
4. Exterior lights used expressly for safety or security purposes shall be limited to the minimum number and configuration required to achieve their functional role(s). The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible are required for any exterior lights used expressly for safety or security. Lights incorporating motion detector switches shall be downward directed, shielded and utilize low wattage LPS, LED or true red neon light sources.
5. Dune crosswalks may be lighted. If lighted, dune crosswalks shall utilize low-profile shielded luminaires directed and positioned so that the point source of light or any reflective surface of the light fixture is not directly visible from the beach. All light fixtures on dune crosswalks

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must utilize low wattage LPS, LED or true red neon light sources. Dune crosswalk lighting seaward of the frontal dune, or on beach areas where no frontal dune exists, shall be turned off during marine turtle nesting season.

6. Parking areas within direct line-of-sight of the beach shall be designed with the minimum lighting necessary to provide safety and security and lighting shall be:
 - a. Downward directed, shielded and utilize low wattage LPS, LED or true red neon light sources; and
 - b. Utilize low-profile luminaires and bollards to the maximum extent possible. Any pole lights determined to be necessary to provide safety and security shall be fully shielded and installed at a maximum height of fifteen (15) feet in travel ways and twelve (12) feet in other areas; or
 - c. Included in a lighting plan approved by FWC to minimize the impacts to nesting marine turtles.
7. Parking areas and roadways, including any paved or unpaved areas upon which motorized vehicles will park or operate, shall be designed and located to prevent vehicular headlights from directly or indirectly illuminating the beach.
8. Vehicular lighting, parking area lighting, and roadway lighting shall be shielded from the beach via cutoff fixtures and through the use of ground level barriers. Ground level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short- or long-term damage to the beach/dune system.
9. Tinted or filmed glass consistent with FWC standards for Sea Turtle Lighting shall be installed on all windows and glass doors of single or multistory structures within line-of-sight of the beach.
10. Use of appropriately shielded low LPS, LED lights and fixtures shall be required for high intensity lighting applications such as parking areas and travel ways, providing security and similar applications.
11. Lights illuminating signs and internally illuminated signs shall be shielded or screened such that they do not directly, indirectly or cumulatively illuminate the beach and that the light shall not be visible from the beach.
12. Temporary lighting of construction sites during nesting season shall be restricted to the minimal amount necessary and shall incorporate the standards of this section. Said lighting shall be:
 - a. Mounted no more than eight (8) feet above existing grade;
 - b. Positioned or shielded so that the light is cast downward and the source of light or any reflective surface of the light fixture is not visible from the beach; and

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- c. Positioned or shielded so as to not directly, indirectly or cumulatively illuminate the beach.
13. Upon completion of the construction activities and prior to issuing a certificate of occupancy for any new development within direct line-of-sight of the beach, compliance with the beachfront lighting standards set forth in this section shall be inspected as follows:
- a. An inspector shall conduct a site inspection which includes a night survey with all exterior lighting turned on.
 - b. The inspector shall prepare and report the inspection finding in writing, identifying:
 - i. The date and time of initial inspection;
 - ii. The extent of compliance with the lighting standards;
 - iii. All areas of observed noncompliance, if applicable;
 - iv. Any action(s) recommended to be taken to remedy observed noncompliance, if applicable.

The inspector, in cases where remedial action is necessary, shall notify the owner or developer of the results of the inspection and shall schedule a date and time for a subsequent inspection.

D. Lighting Standards for Existing Development.

- 1. All light sources or reflective surfaces illuminated by such sources that are visible from a beach that is a potential marine sea turtle nesting site shall be brought into compliance with the following:
 - a. Existing artificial light fixtures shall be repositioned, modified, replaced or removed so that:
 - i. The point source of light or any reflective surface of the light fixture is not directly visible from the beach;
 - ii. Areas seaward of the frontal dune, or the beach in areas where no frontal dune exists, are not directly or indirectly illuminated; and
 - iii. Areas seaward of the frontal dune, or the beach in areas where no frontal dune exists, are not cumulatively illuminated.
 - b. Internally illuminated signs and lights illuminating signs shall be shielded or screened such that they do not directly, indirectly or cumulatively illuminate the beach and the light shall not be visible from the beach.
 - c. One or more of the following measures shall be taken to reduce or eliminate the negative effects of existing exterior artificial lighting so that all existing development is in full compliance with subsection D.1.a., above:

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- i. Reposition fixtures so that the point source of light or any reflective surfaces illuminated by such sources is not visible from the beach;
 - ii. Replace fixtures having an exposed light source with fixtures containing recessed light sources or shields;
 - iii. Replace nondirectional fixtures with directional fixtures that point down and away from the beach;
 - iv. Replace fixtures having transparent or translucent coverings with fixtures having opaque external shields designed to be in compliance with subsection D.1.a., above, and extending an appropriate distance below the bottom edge of the fixture on all visible sides so that the light source or any reflective surface of the light fixture is not visible from the beach;
 - v. Replace pole lamps with low-profile, low-level luminaires so that the light source or any reflective surface of the light fixture is not visible from the beach;
 - vi. Replace incandescent, fluorescent and high intensity lighting with low wattage LPS, LED or true red neon;
 - vii. Exterior lights used expressly for safety or security purposes shall be limited to the minimum number and configuration required to achieve their functional role(s). The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible are required for any exterior lights used expressly for safety or security. Lights incorporating motion detector switches shall be downward directed, shielded and utilize low wattage LPS, LED or true red neon light sources;
 - viii. Plant or improve native vegetation buffers between the light source and the beach sufficient to screen light from the beach;
 - ix. Construct a ground level barrier to shield light sources from the beach. Ground level barriers must not interfere with marine turtle nesting or hatchling emergence or cause short- or long-term damage to the beach or dunes; and
 - x. Permanently remove, disable, or lock in the off position during nesting season any fixture which cannot be brought into compliance with the provisions of this section.
- d. One or more of the following measures shall be taken to reduce or eliminate the negative effects of interior light emanating from doors and windows within direct line-of-sight of the beach:
- i. Upgrade windows within line-of-sight of the beach to tinted or filmed glass;
 - ii. Rearrange lamps and other moveable fixtures away from windows;
 - iii. Use window treatments (e.g., blinds, curtains) to shield interior lights from the beach;

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- iv. Turn off unnecessary lights; and
 - v. Provide educational materials to renters stating the importance of closing the window treatments at night during nesting season if the windows do not have tinted or filmed glass.
 - e. Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened in accordance with subsections D.1.a. and b., above, or turned off between sunset and sunrise during nesting season.
 - f. If existing dune crosswalks are lighted and are not in compliance with this Section, replace existing lighting with low-profile shielded luminaires directed and positioned so that the point source of light or any reflective surface of the light fixture is not visible from the beach and that utilize low wattage LPS, LED or true red neon light sources or turn off lighting during nesting season. Dune crosswalk lighting seaward of the frontal dune or on beach areas where the frontal dune no longer exists shall be turned off during nesting season.
 - g. Beachfront properties with seawalls and protective boulders on the gulf side of seawalls with less than five (5) feet of sandy beach will be permitted to have diffused light extending on the seawall and protective boulders for the protection and security of people.
 - h. City Council is authorized to grant variances to the date of compliance where lighting installed before the adoption of the Ordinance from which this section derives would be in violation of this section. Requests for variances must be submitted in writing to the City Clerk. The variance will be considered by City Council at a regularly scheduled meeting. Such variances may be granted only where the applicant has demonstrated that the application of these standards to lighting will cause such an undue and unique hardship to the property and that more time is needed to amortize the owner's reasonable investment in the lighting. In granting a variance, City Council shall specify a schedule to attain compliance. Violation of the terms of the schedule shall constitute a violation of this section.
- E. Standards for Publicly Owned Lighting.**
- 1. All publicly owned lighting with light sources that are visible from the beach or that illuminate reflective surfaces that are visible from the beach, including, but not limited to, streetlights, parking lot lights and beach access lighting, shall be:
 - a. Fitted with a shield or positioned so that the light source or any reflective surfaces illuminated by such sources are not visible from the beach and do not directly or indirectly illuminate the beach; or
 - b. Extinguished between sunset and sunrise from May 1 to October 31 of each year; or

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- c. Included in a lighting plan approved by FWC to minimize the impacts to nesting marine turtles.

F. Compliance Inspections.

- 1. Periodic nighttime lighting inspections will be performed during nesting season from the beach to determine the extent of compliance with all sections of this section. These inspections will be conducted as needed until existing beachfront lighting has been brought into compliance.

G. Prohibition of Activities Disruptive to Marine Turtles.

- 1. The following activities and situations are prohibited on the beach from sunset to sunrise during nesting season:
 - a. The operation of all motorized vehicles, except emergency and law enforcement vehicles or persons who have authorization or a permit to engage in marine turtle conservation or research issued by FWS, FDEP, FWC or the City, and who are acting in conformance with such authorization or permit.
 - b. Horseback riding.
 - c. Campfires or bonfires.
 - d. Any transient lighting which purposely and flagrantly illuminates nesting sea turtles or hatchlings. This prohibition does not apply to persons who have authorization or a permit to engage in marine turtle conservation or research issued by FWS, FWC, FDEP or the City, and who are acting in conformance with such authorization or permit.
 - e. Any temporary structures, including, but not limited to, beach chairs, umbrellas, and cabanas which have the potential for entrapment of marine turtles and which may interfere with the use of the natural beach environment for nesting by marine turtles. All temporary structures shall be removed from the beach nightly or stored in areas situated to minimize interference with marine turtles.

H. Education and Information.

- 1. The City and/or a private not-for-profit organization shall prepare and distribute brochures to coastal establishments and residents and make presentations about the effects of light on endangered sea turtle reproduction and about sea turtle biology generally. The City has the authority to notice first-time violators of this section by sending a letter to the offender describing the violation and enclosing a brochure and summary of the ordinance from which this section derives.

I. Local Approval Not Exclusive.

- 1. Approval required pursuant to this section shall be in addition to and not in lieu of any Federal, State, regional or other local approvals which may be required for the same or

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similar activities. Similarly, compliance with provisions of this section does not excuse any person from having to comply with other applicable Federal, State, regional or local laws.

2.5. Wildlife Corridors

- A. Purpose and Intent.** It is the purpose and intent of this section to implement Intent OS 1.6, Open Space Corridors, of the Open Space Element of the City Comprehensive Plan. The City’s wildlife corridors are intended to provide for the movement of wildlife within and between urban developed areas and to incorporate other required development standards such as compatibility buffers, conservation open space, landscaping, and setback areas.
- B. Development Standards.**
 1. New Planned District projects, subdivisions, or development that is larger than five (5) acres shall incorporate wildlife corridors. These corridors shall include connections to adjacent City and Sarasota County open space or wildlife corridors.
 2. Corridor widths shall be a minimum of twenty-five (25) feet in width.
 3. Permitted uses in wildlife corridors are limited to recreational uses such as walking trails, conservation open space uses, and unimproved service roads.
 4. Wildlife corridors shall be shown on an appropriate binding master plan, preliminary plat, or site and development plan, as appropriate.
 5. The design of the subdivision or development shall ensure that open space areas are connected through identified wildlife corridors. Internal roadways shall be permitted to cross wildlife corridors provided that the minimum wildlife corridor width is maintained at the intersection of the corridor and that the roadway and such crossings minimize fragmentation of the open space and wildlife corridors. Signage is required on both sides of the approach to such wildlife corridors to identify the crossing.

5-6. Curbs adjacent to wildlife corridors shall be designed to accommodate wildlife crossings.

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2.6. Wetlands

- A. Purpose and Intent.** As described in the Comprehensive Plan, the City shall protect and preserve wetlands and wetland buffers, except as otherwise allowed in this Chapter.
- B. General Provisions.** Properties identified as having wetlands shall ensure that development must minimize impact and then mitigate for impacts to wetlands when impacts are unavoidable. Where such impacts are proposed, the applicant is required to prove that no other reasonable alternative exists other than disrupting the natural system.

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1. Prior to submitting a preliminary plat or site and development plan, an applicant proposing to alter wetlands, surface waters, and/or shorelines shall meet with City staff and provide:
 - i. A delineation of the wetland and/or surface water in accordance with Chapter 62-340, Florida Administrative Code (as amended) and Army Corps of Engineers Wetland Delineation Manual (Technical Report Y-87-1) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (2008);
 - ii. Proposed wetland and/or surface water impacts;
 - iii. All minimization and avoidance measures; and
 - iv. And proposed wetland mitigation when impacts are unavoidable.
2. The applicant shall follow the below principles in a proposal to affect wetlands, surface waters, and/or shorelines:
 - i. Avoid damage to the natural system to the greatest extent possible and practicable.
 - ii. Protect wetland, surface waters, and shorelines from secondary impacts by providing an average twenty-five (25) foot (minimum fifteen (15) foot) buffer around each feature.
 - iii. Minimize impacts where avoidance is not possible; impacts shall be limited to the minimum necessary to allow the reasonable use of the property.
 - iv. Limit activities and uses that are known to adversely impact wetlands, surface waters, and shorelines.
 - v. Coordinate with Federal and State review agencies on wetland designation, mitigation policies, and regulations.

C. Development Standards. No new development shall impact wetlands, surface waters, and shorelines within the City without approved mitigation. Any development which requires site and development approval shall evaluate natural drainage features, man-made drainage structures, and any potential impact to wetlands, surface waters, and shorelines. Applicants must demonstrate that new developments will avoid impacts to wetlands, surface waters, and shorelines. The City shall promote wetland, surface water, and shoreline preservation by requiring the following standards:

1. **Delineate Wetlands and Surface Waters.** Any proposed development shall identify and delineate wetland, waterway, shorelines, and aquifer recharge area boundaries based upon an on-site field survey by a professional biologist or registered engineer, as appropriate,

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provided by the applicant with final wetland delineations to be reviewed and approved by the applicable Federal and State environmental agencies.

2. **Estuarine Shorelines.** Applicants for development along estuarine shorelines shall submit, as part of the permitting process, plans that demonstrate how the development shall incorporate features designed to protect against potential adverse impacts to:
 - a. Shoreline vegetation, including grass beds, and shoreline stabilization;
 - b. Water quality;
 - c. Native habitat, including seagrass beds and wetland habitats; and
 - d. Other living marine resources.
- D. **Wetland Mitigation Plan Requirements.** If impacts to wetlands are proposed, or if onsite or offsite wetland enhancement or creation is proposed, the applicant shall comply with all State and Federal wetland mitigation requirements.

2.7. Mining/Resource Extraction Considerations

- A. **Purpose and Intent.** The City shall require that impacts from mining operations be minimized, including but not be limited to impacts on public health, welfare and safety, and environmental preservation.
- B. **Development Standards.**
 1. The property owner or mining operators are required to coordinate with local, regional, State, and Federal mining regulatory agencies to ensure that new and existing mining operations meet all applicable requirements.
 2. Dust, noise, illumination, air and ground pollution (including ground water pollution), and truck/heavy equipment traffic must be minimized to avoid unnecessary impacts to the City and adjacent properties.
 3. Extreme well stimulation, commonly referred to as “fracking,” injection wells, and wastewater sludge/pits, are prohibited.
 4. Engineering techniques proposed to be used in the mining process and a description of major equipment and chemicals involved.
 5. Detailed description of measures to be taken during mining to assure the protection of surface and ground water resources, both in quality and as a system.
- C. **Reclamation Plan.** Prior to the approval of a mining plan or activity, mining operations shall prepare a reclamation plan that addresses the elimination and/or mitigation of post-mining environmental concerns to be implemented upon the discontinuation of mining activity. Such plans shall be incorporated into the development approval. A performance and payment bond in the form of a letter of credit, cash bond or surety bond may be required to assure completion, including restoration of the property to its original condition. If required, the bond shall be in

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favor of the city, to be drawn upon for failure to comply with the permit conditions and in a form approved by the city's finance director. Reclamation plans shall include the following:

1. Description of the condition of the subject property including the land to be mined.
2. For newly proposed mining operations a description of condition of the subject property including the land to be mined, prior to any mining activities including the capability of the land prior to mining, and productivity of the land prior to mining including appropriate classification as potential average yield of food, fiber, forage, or wood products.
3. Proposed use of the land following reclamation and the ability and utility of the reclaimed land to support a variety of alternative uses.
4. A detailed description of how the proposed post-mined land use is to be achieved.
5. Engineering techniques proposed to be used in the reclamation process and a description of major equipment and chemicals involved.
6. Detailed estimated timetable for life of the mining operation and each major step in the reclamation process.
7. Detailed description of measures to be taken during reclamation to assure the protection of surface and ground water resources, both in quality and as a system.

2.8. Coastal Waterway Management and Protection

2.8.1. Coastal Waterways

- A. Purpose and Intent.** The City shall work with private property owners to implement protections such as conservation easements to protect sensitive natural resources along coastal waterways including, but not limited to, mangroves, dune systems, and coastal tidal areas.
- B. Development Standards.**
 1. An environmental impact study and City Council approval is required for any sea wall construction to discourage the hardening of the Gulf of Mexico and other natural waterway shorelines.
 2. Fill and dredging activities shall comply with all applicable local, State, and Federal requirements.
- C. Impact Analysis.** It is required that development must minimize impact and then mitigate for impacts to natural resources along coastal waterways. Prior to submitting a site and development plan, an applicant proposing to alter natural resources along coastal waterways shall meet with City staff. The applicant is required to prove that no other reasonable alternative exists other than disrupting the natural system. The applicant shall follow the principles below in a proposal to impact natural resources along coastal waterways:
 1. Avoid damage to the natural system to the greatest extent possible and practicable;

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2. Minimize impacts where avoidance is not possible, limit impacts to the minimum necessary to allow the reasonable use of the property;
 3. Limit activities and uses that are known to adversely impact the coastal waterway; and
 4. Coordinate with applicable Federal and State review agencies on applicable coastal mitigation policies and/or regulations.
- D. Coastal Waterway Mitigation Requirements.** If impacts to coastal waterways are proposed, the applicant shall comply with all State and Federal requirements.

2.8.2. *Structures over Water*

- A. Purpose and Intent.** The general purpose and intent of Sections 2.8.2 through 2.8.6 (hereinafter referred to as (“SOW Code”) is to provide for adequate regulation and control of altering wetland or surface water jurisdictional areas and the repair and construction of associated water-dependent structures such as docks, piers, davits, shoreline protection devices, and other similar structures, in the interest of public rights, welfare, and public riparian property rights. The City shall exercise its authority throughout all of the City jurisdictional areas and is hereby authorized to apply and enforce the provisions of this section to all areas within the City.
- B. Interpretation.** The SOW Code shall be interpreted in the following manner:
1. In the interpretation of the SOW Code, all provisions shall be considered minimal requirements and construed liberally to effectuate the purposes of the SOW Code.
 2. The SOW Code is not intended to repeal, abrogate, or impair any existing statutes, laws, ordinances, easements, covenants, or deed restrictions which impose more stringent restrictions on coastal construction or excavation.
 3. Where the SOW Code conflicts with or overlaps another City ordinance, whichever imposes the more stringent restrictions on construction and excavation shall prevail.
 4. Each separate provision of the SOW Code is deemed independent of all provisions herein so that if any provision or provisions of the SOW Code are declared invalid or unconstitutional by any court of competent jurisdiction, all other provisions shall remain valid and enforceable.
- C. Overlapping Administration.** In the event that proposed activities on a particular site are subject to overlapping provisions from the LDC, the more stringent regulations shall be applicable.
1. **Simultaneous Reviews.** In the event that an applicant seeks authorization to conduct activities which are subject to overlapping provisions from different sections of the LDC, City staff shall perform simultaneous reviews to the greatest extent practicable.
 2. **Coordination with the Land Development Code.** For dockage facilities associated with proposed subdivisions, multifamily developments, and commercial projects, all land

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development approvals shall be obtained prior to application for any permit regulated by this section.

3. **Listed Species.** In cases where impacts to listed species may occur, applicants shall be required to consult with the appropriate Federal and State wildlife agencies, to use recognized sampling techniques to identify listed species, and to provide documentation of such coordination and compliance prior to commencement of construction activities that could disturb listed species or their habitat.
- D. **Limits to Applicability.** Nothing in the SOW Code shall be construed as requiring modification of existing docks or piers extending from privately owned uplands that were constructed before January 1, 1985.
- E. **Transition from County Jurisdiction.** In recognition of the longstanding regulation by the Sarasota County Water and Navigation Control Authority, the large number of existing permits issued by the authority, and the rights of property owners adjacent to properties with existing structures, the provisions in this subsection shall govern the transition of authority to the City.
 1. Consistent with Section 54-653(1)(a) of the Sarasota County Code of Ordinances, the City enacted its own permitting regulations for the construction and maintenance of docks and piers in the City.
 2. Prior to undertaking any construction activities involving the altering of jurisdictional lands, the applicant shall obtain any necessary permits or approvals from Federal and State authorities.
 3. All existing permits or authorizations issued by the Sarasota County Water and Navigation Control Authority for altering jurisdictional areas shall continue in existence after the effective date of the ordinance from which the SOW Code derives. All permittees shall abide by the terms and conditions of such permits, and a violation of the terms and conditions of such permits shall constitute a violation of the SOW Code. Modification of existing permits and authorizations issued by the Sarasota County Water and Navigation Control Authority shall be processed by the City in the same manner as modification of permits issued by the City.
 4. When applicable, the City shall submit copies of applications for construction and maintenance of docks and piers to the Sarasota County Water and Navigation Control Authority for review to determine consistency with the Sarasota County Manatee Protection Plan.
- F. **Permit Required.** Unless specifically exempted by the SOW Code, all proposed structures over water, shoreline protection devices, and dredging projects shall obtain required and/or applicable local, Federal, State, and City permits prior to initiating construction. Major permits,

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minor permits, and exemptions do not preclude the applicant from obtaining required building, fire and life safety, and other applicable City permits.

1. No work shall be performed having the effect of altering any jurisdictional areas without first obtaining a permit from City Council or the Director, unless specifically exempted.
2. It shall be the duty of the Director to accept and process all applications and matters of business coming before City Council as it pertains to the SOW Code.

2.8.3 Major and Minor Permits for Structures over Water

A. Major Permit Threshold. The following activities shall determine the threshold for requiring a major permit:

1. Any single-family dock construction or expansion which includes a boathouse.
2. Any dock construction or expansion that would result in the property having a total of five (5) slips or more.
3. Any proposed expansion or replacement of a dock irrespective of size which includes fuel dispensing facilities.
4. Any proposed dock irrespective of size which is established for commercial use or a boatyard.
5. Any proposed activities that do not qualify for a minor permit or exemption pursuant to this section or meet the minimum standards as described shall require a major permit subject to the provisions of this section.

B. Major Permit Applications. Whenever any work is proposed that is not otherwise authorized by a minor permit or exemption under this section, the applicant shall, before commencing any such operation, file an application and obtain a major permit from City Council to do such work.

1. When an application for a major permit is made as required by this Chapter, the Director shall process the application within reasonable timeframes with due consideration given to the rights and privileges of all affected parties.
2. Every application for a major permit shall be approved or denied at a public hearing which shall be held within approximately 120 working days after receipt of a complete application, which shall constitute the original application and any additional information requested by staff or submitted by the applicant for correction of errors or omissions.
 - a. If revised plans conforming to requested additional information are not submitted within ninety (90) working days after receipt of notice of the need for revisions, the permit application shall be deemed withdrawn.
 - b. Failure to satisfy the review timeframe shall not result in approval by default of the application for a permit.

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3. The Director will forward the permit application to the City's Technical Review Committee (TRC) for review and comment.

C. Major Permit Submittal Requirements. The applicant shall submit all information required to adequately address the filing requirements of the City. In addition, the applicant shall submit all other information determined by the City to be necessary to address the design criteria. Applications for permits shall be submitted to the Planning and Zoning Department. The application shall include:

1. A plan or drawing from a Florida Registered Design Professional showing specifically what is proposed to be done. The plan or drawing shall include:
 - a. Survey, drawn to scale and shall show property boundaries;
 - b. The depths of the water and the elevation of the development above the mean high-water line (MHWL);
 - c. Existing native habitats (including mangrove swamps and marine grasses);
 - d. The plan shall show the location and length of all proposed structures as measured from the MHWL;
 - e. Total square footage of all proposed structures;
 - f. Width and length of all proposed structures, including access dock and/or finger pier;
 - g. Maximum proposed decking elevation;
 - h. Location of proposed boat lift(s), fish cleaning table(s), bench(es), boat locker(s); and
 - i. New and existing tie-off pilings and boat lifts, all existing structures, including identification of any structures proposed to remain.
 - j. Electrical Datum Plane (if electric is proposed for the dock).
 - k. All design loads required by FBC R301.1 or FBC Chapter 16.
2. Architectural profiles/renderings shall be prepared and submitted for projects that include boathouses.
3. Proof of ownership of the property that is proposed to be developed, including any submerged lands.
4. If applicable, a copy of approved permits or authorization letters from all regulatory agencies that have jurisdiction shall be submitted prior to commencement of construction activities.
5. Information required by the Director as deemed necessary in the processing and determination of the application. This may include such information as riparian rights line surveys, hydrographic surveys, MHWL surveys, aquatic vegetation surveys, engineered plans, mitigation plans, or other technical information related to site-specific conditions.

D. Notice of Public Hearing for Major Permits. Notice of a public hearing on a petition for a major permit shall be given at least fifteen (15) days in advance of the public hearing. The owner of the

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property for which the major permit is sought, or his agent or attorney designated by him on his petition, shall be notified by mail. Notice of the public hearing shall be prominently posted on the property for which the major permit is sought. Notice of the public hearing shall be advertised in a newspaper of general circulation in the City at least one (1) time fifteen (15) days prior to the public hearing. The notice shall state the development proposed to be made, and a general description of the area involved, and shall include a drawing showing the development to be made and the location of same as it relates to the surrounding area. Notice shall be given by mail to all owners of property within 250 feet of the boundary lines of the property for which the major permit is requested, or within 250 feet of the centerline of any right-of-way or waterbody adjacent to the subject property, whichever distance is greater; provided, however, that, where the applicant is the owner of land not included in the applicant's application, and such land that is not included in the application is a part of or adjoins the parcel for which the request is made, the 250-foot requirement shall be measured from the boundaries of the applicant's ownership, including the land not covered by the applicant's application up to a maximum of 600 feet. For purposes of this provision, owners of adjacent or nearby properties within the distance set out shall be deemed those whose names appear on the latest available tax rolls of the County. Failure of a property owner to receive mail notice shall not invalidate the hearing or subsequent action related thereto. The City Clerk shall execute and file a certificate which shall contain the names and addresses of those persons notified, and the dates the notice was mailed. The certificate shall be signed by the City Clerk and the official seal affixed. The certificate shall be prima facie evidence of the fact that notice was mailed.

- E. Administrative Procedures for Major Permits.** City Council, based on evidence and testimony given at a public hearing, shall make findings of fact and determine whether or not the proposed plan or development will adversely affect any of the criteria listed and the City Comprehensive Plan.
1. Before taking any final affirmative action on any proposed major permit, City Council shall receive recommendation regarding the major permit from the Planning Commission. The Planning Commission shall consider the major permit in relation to the standards criteria listed and the City Comprehensive Plan.
 2. No request for major permit may be considered for recommendation by the Planning Commission until such time as notice of a public hearing on the proposed amendment has been given to the citizens in accordance with the subsection for major permits.
 3. Submission of Planning Commission report to City Council. Within fifteen (15) days from the date a proposed major permit has been heard by the Planning Commission, unless a longer time is mutually agreed upon between City Council and the Planning Commission in

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the particular matter, the Planning Commission shall submit its recommendation to City Council.

4. Planning Commission recommendations to be advisory only. The recommendations of the Planning Commission regarding a major permit shall be advisory only and shall not be binding upon City Council.
5. Upon receipt of the Planning Commission's recommendations, City Council shall hold a public hearing.

F. Approval of Restrictions, Stipulations and Safeguards.

1. City Council may grant or deny such major permit application and may make the granting conditional upon such restrictions, stipulations and safeguards as it may deem necessary to ensure compliance with the intent and purpose of the City Comprehensive Plan.
2. Any major permit shall expire twelve (12) months from the date of grant if a building permit has not been issued and/or construction has not commenced unless, upon request, an extension of time is granted by City Council, to a date certain.
3. In cases where stipulations, restrictions, or safeguards are attached, all representations of the owner or his agents at public hearings shall be deemed contractual and may be enforced by suit for injunction or other appropriate relief. All conditions, restrictions, stipulations, and safeguards that are a condition to the granting of a major permit shall be deemed contractual and may be enforced by suit for injunction or other appropriate relief. The City shall be entitled to recover its costs, including reasonable attorney fees, in any action brought to enforce the provisions of this section.

G. Denial. If City Council shall deny a major permit, it shall state fully in its record its reasons for doing so. Such reasons shall take into account the standards stated herein, or such of them as may be applicable to the action of denial, and the particular regulations relating to the specific major permit requested, if any.

H. Limitation on Reapplications for Major Permits.

1. Whenever City Council has denied an application for a major permit, the City Council shall not thereafter consider any further application for a major permit of any part or all of the same property for a period of twelve (12) months from the date of such action.
2. The time limits may be waived by four (4) affirmative votes of City Council when such action is deemed necessary to prevent injustice or to facilitate the proper development of the City.

I. Minor Permit Threshold. The Director may, upon approval of an application, and without the necessity of holding a public hearing, issue a minor permit. The following activities shall determine the threshold for requiring a minor permit subject to the provisions listed:

1. Any new or expanded single-family dock, which does not include a boathouse.

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2. Any new installation of piers, boat lifts, mooring pilings, pile-supported boat davits, or personal watercraft lifts.
 3. Maintenance excavation of existing access channels connecting to a navigable waterway, to a width no greater than the minimum necessary to provide for navigational safety, and in no event to exceed forty (40) feet, and to a depth of not more than five (5) feet below mean low water, and where the excavation will not result in the placing of any spoil material in or upon jurisdictional areas.
 4. Construction of new or expanded shoreline protection devices landward of existing littoral zones and wetland vegetation, and at or landward of the MHWL.
 5. Maintenance of boat ramps, jetties, groins, and similar coastal structures.
 6. The restoration of banks in artificially created waterways and canal systems through residential subdivisions, or in existing artificially created canals defined by legal description, recorded in the official public records of Sarasota County, Florida, where the work will result in seawalls, retaining walls, or riprap being constructed, or shoreline contours being regraded, landward of the approximate MHWL or vegetated littoral zone.
- J. **Minor Permit Applications.** Whenever any work is proposed that is not otherwise authorized by a major permit or exemption under this section, the applicant shall, before commencing any such operation, file an application and obtain a minor permit from the Director to do such work.
- K. **Minor Permit Submittal Requirements.** The applicant shall submit all information required to adequately address the filing requirements required by the City. In addition, the applicant shall submit all other information determined by the City to be necessary to address the design criteria. Applications for permits shall be submitted to the Planning and Zoning Department. The application shall include:
1. A plan or drawing showing specifically what is proposed to be done. The plan or drawing shall be accompanied by a survey, drawn to scale and shall show property boundaries, the depths of the water and the elevation of the development above the MHWL, and existing native habitats (including mangrove swamps and marine grasses). The plan shall show the location and length of all proposed structures as measured from the MHWL, total square footage of all proposed structures, width and length of all proposed structures, including access dock and/or finger pier, maximum proposed decking elevation, location of proposed boat lift(s), fish cleaning table(s), bench(es), boat locker(s), and all new and existing tie-off pilings and boat lifts, all existing structures, including identification of any structures proposed to remain.
 2. Proof of ownership of the property which is proposed to be developed, including any submerged lands.

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3. If applicable, a copy of approved permits or authorization letters from all regulatory agencies that have jurisdiction shall be submitted prior to commencement of construction activities.
 4. Information required by the Director as deemed necessary in the processing and determination of the application. This may include such information as riparian rights line surveys, hydrographic surveys, MHWL surveys, aquatic vegetation surveys, engineered plans, mitigation plans, or other technical information related to site-specific conditions.
- L. Administrative Procedures for Minor Permits.** The duty and authority to review applications for minor permits and issue or deny same is hereby delegated to the Director or designee.
1. No public hearing shall be required for the issuance of any such minor permit and no review of the issuance of same shall be required by City Council.
 2. All applicants shall submit documentation of compliance with all pertinent permit requirements, as well as documentation that the applicant owns or has authority to use the submerged lands that will be affected by the project, in the form specified by the City before the Director will review the application. Applicants are responsible for securing all approvals required by private property restrictions or by other regulatory agencies.
 3. The Director shall determine when an application for a minor permit is complete. The Director may forward minor permit applications to the appropriate departments for review and comment.
 4. When an application for a minor permit is made as required by this section, the Director shall process the application within reasonable timeframes with due consideration given to the rights and privileges of all affected parties.
 5. No minor permit shall be issued until the Director determines that the effects of the proposed construction will meet the criteria provided and the City Comprehensive Plan.
 6. Referral of applications to City Council. Any application for a minor permit may be referred to City Council by the Director. City Council may grant or deny such minor permit, or may grant such minor permit subject to suitable conditions, safeguards and stipulations. A public hearing notice in compliance subsection 2.8.3.D. will be required. City Council shall be assured that the petitioner has complied with all applicable standards.
- E. Approval of Restrictions, Stipulations and Safeguards.**
1. The Director may grant or deny such minor permit application and may make the granting conditional upon such restrictions, stipulations and safeguards as deemed necessary to ensure compliance with the intent and purpose of the most recently adopted Comprehensive Plan.
 2. All conditions, restrictions, stipulations and safeguards that are a condition to the granting of a minor permit shall be deemed contractual and may be enforced by suit for injunction

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or other appropriate relief. The City shall be entitled to recover its costs, including reasonable attorney fees, in any action brought to enforce the provisions of this Section.

- F. **Appeals.** The applicant or owner may appeal any determination by the Director in reviewing an application for a minor permit. Appeals shall follow the process defined in Section 1.16 of the LDC.
- G. **Minor Permit Duration.** No minor permit shall be issued for more than a one (1) year period. Work under a minor permit must be commenced within six (6) months from the date of issuance and shall be completed within one (1) year from the date of issuance of the minor permit; in the event the proposed work is not commenced or completed within said periods, or an extension has not been granted by the Director, reapplication shall be made to the Planning and Zoning Department. One (1) or more extensions of time for periods of not more than ninety (90) days each may be allowed by the Director provided the extension is requested in writing and justifiable cause is demonstrated. For any noncompliance with, or for violations of, its terms, the minor permit may be revoked after notice of intent to do so has been furnished by the Director and opportunity afforded within reasonable time for hearings thereon.
- H. **Exemptions.** Any design change or alternate use of construction material on the structures to be maintained may cause the project to be nonexempt. The following maintenance work is hereby exempted from permitting requirements of this section, provided that the structures to be maintained were constructed in accordance with a permit previously issued, or were constructed before January 1, 1985:
 1. Redecking or resurfacing of docks, piers, and other similar structures within the limits and dimensions of the existing structure;
 2. Replacing or repairing handrails, guardrails, support stringers and benches;
 3. Replacing or repairing tie-backs and deadmen on bulkheads when the work is located landward of all wetlands;
 4. Removing, replacing, or repairing bulkhead caps when the cap is reconstructed within six (6) inches of existing dimensions and is entirely above the MHWL;
 5. Repairing cracks in bulkhead slabs and caps with bonding cement above the MHWL;
 6. Replacing existing hardware and fasteners on dock decking, framing, and boat lifts;
 7. Repairs to bridges, walkways, and utility crossings where the structure spans the waterway;
 8. Maintenance of navigation signage;
 9. Projects by local, State, and Federal government agencies performed as part of their normal official duties for the general public. For City projects, advance written notification shall be provided to the Director, including a copy of the plans for review. The purpose of this review is to ensure that City projects shall be consistent with the policies and

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principles of the most recently adopted Comprehensive Plan and to the maximum extent practicable, the technical standards of this Section;

10. Repair or replacement of all existing docks, piers, mooring piles, boat lifts, boathouses, revetments, seawalls, retaining walls, and similar structures provided that the structures are restored to their existing size, shape and location; and
 11. Replacement of channel markers.
- I. **Permit Approval Criteria.** City Council and the Director shall consider, in their review of major and minor permit applications, the following criteria. If any of the following questions are answered in the affirmative, the application shall be denied or modified to comply with the law:
1. Would the proposed project have a detrimental effect on the use of jurisdictional areas for navigation, transportation, recreational or other public purposes and public conveniences?
 2. Would the proposed project restrict the free use of jurisdictional areas?
 3. Would the proposed project adversely alter the flow of water or tidal currents in jurisdictional areas?
 4. Would the proposed project adversely affect long-term water quality, erosion control or increase erosion, shoaling of channels, or formation of stagnant pockets likely to collect debris?
 5. Would the proposed project adversely affect the conservation of wildlife, marine life, and other natural resources?
 6. Would the proposed project adversely affect the natural beauty or recreational opportunities upon jurisdictional areas?
 7. Would the proposed project adversely affect the uplands surrounding or directly affected by the plan or development?
 8. Would the proposed project adversely affect the public health, safety and welfare?; or
 9. Would the proposed project exceed applicable siting criteria within the technical standards?
- J. If City Council or the Director, as applicable, find the proposed plan or development will not adversely affect any of the criteria listed, City Council or the Director shall grant and issue a permit for the proposed plan or development, or any modification thereof according to the provisions of this section, as hereinafter provided. The permit may contain stipulations or conditions that are designed to mitigate the impact of the development on the public rights and interests identified in the criteria listed or assure that construction or use of the permitted facility will conform to the requirements of this section.
- K. If City Council or the Director, as applicable, find that the proposed plan or development will adversely affect any private property rights or any of the rights or interests of the public

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identified in the criteria listed, City Council or the Director shall deny the application and refuse to issue a permit for the proposed plan or development.

- L. The proposed plan or development shall be consistent with the provisions of the City adopted Comprehensive Plan.
- M. The proposed plan or development shall be consistent with the Sarasota County Manatee Protection Plan, as amended.

2.8.4. Construction and Technical Standards

- A. **Purpose and Intent.** The provisions of this section shall not deny any right of an upland owner to construct a dock or pier extending from his or her upland recognized by the Constitution and laws of the State, but the City Council and Director may impose permit conditions for the construction hereof in order to carry out the provisions and intent of this section, including the standards provided in this section.
- B. **Development Standards.** The construction of docks, piers, mooring piles, davits, boat lifts, shoreline protection devices, or other similar structures shall be subject to the minimum standards for issuance of a permit as described in this section. For major permits, the construction and technical standards within this section shall only be used as guidance for evaluating permit approval criteria of subsection 2.8.3.1.9, above.
 - 1. Permits shall be issued only for structures associated with water-dependent activities. Water-dependent structures (including docks, piers, mooring piles, davits, boat lifts, and other similar structures) and vessels shall conform to the following siting criteria:
 - a. No structure, moored vessel, or combination thereof may occupy more than twenty-five percent (25%) of the width of any waterway. However, where unique site-specific conditions as described below occur, the City Council or Director has the authority, but not the obligation, to grant relief from the twenty-five percent (25%) width of waterway criteria. An exception to the rule occurs when the City Council or the Director makes each of the following determinations:
 - i. The applicant's property meets one of the following site-specific conditions:
 - a) Located at the terminal end of a canal;
 - b) Located opposite lands under public ownership upon which no dock construction is anticipated; or
 - c) Located opposite an offshore island upon which no development or dock construction is anticipated.
 - ii. The proposed deviation shall meet all permit approval criteria and all other construction and technical standards in this section;

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- iii. The proposed deviation does not prohibit adjoining property owners from constructing a comparable dock facility in the future;
 - iv. No possibility exists for an alternative dock design that meets the twenty-five percent (25%) criteria along the applicant's shoreline (For end of canal scenarios, a riparian rights line survey may be required. Any riparian rights line located within twenty-five (25) feet of the proposed construction shall require a sworn affidavit of no objection from the affected property owner(s).); and
 - v. Deviation from the twenty-five percent (25%) criteria shall be the minimum necessary to provide access to the waterway. (A request to increase vessel draft shall not be grounds for granting relief from the twenty-five (25%) percent width of waterway.)
2. No structure, moored vessel, or combination thereof shall be located closer than twenty-five (25) feet to the centerline of any channel typically used for navigation, except where the channel is less than eighty-three (83) feet wide.
 3. All structures and vessels shall be located a minimum of 100 feet from the near edge of the Intracoastal Waterway channel, unless specific authorization is obtained from the U.S. Army Corps of Engineers.
 4. All structures except marginal docks and seawall-mounted davits must be set back a minimum of twenty-five (25) feet from the applicant's riparian rights line. Marginal docks and davits mounted on a seawall may be set back only ten (10) feet. There shall be no exceptions to the setbacks unless the applicant's shoreline frontage is less than sixty-five (65) feet, or a sworn affidavit of no objection is obtained from the affected adjacent upland riparian owner, or the proposed structure is a subaqueous utility line.
 5. For upland properties or easements where the shore frontage is less than sixty-five (65) feet, only a minimally sized dockage facility shall be authorized for the purpose of mooring only one vessel. The dock structure and mooring area, including any appurtenant structures, shall be located within the centered fifty percent (50%) and occupy no more than the centered fifty percent (50%) of the available shore frontage. A sworn affidavit of no objection shall be obtained from the affected adjacent upland riparian owner(s) if the proposed dock, appurtenant structures, and mooring area extends beyond the centered fifty percent (50%) of the available shore frontage.
 6. All structures and vessels shall be located in a manner that minimizes either direct or inadvertent alteration or destruction of seagrasses, wetland vegetation, bottom sediments, and benthic fauna.

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- a. Vessel draft of any vessels berthed at a structure authorized pursuant to this Section shall be restricted so as to maintain a minimum clearance of one foot as measured at mean low water depth over any submerged bottomlands or tops of seagrasses. Where no seagrasses exist, the one (1) foot minimum clearance may be reduced to zero (0) in manmade canals. This seagrass restriction shall apply both to the mooring area within a ten (10) foot radius around the structure, as well as to the entire travel way between the structure and the nearest channel.
- 7. If the mean low water depth is not sufficient to meet the requirements of this Section, the applicant shall have the following options:
 - a. Revise the location or configuration of the proposed Dock to provide a mooring area with adequate water depth, if possible, to do so while maintaining compliance with all other siting and design criteria listed in this section; or
 - b. Revise the application to request a pier instead of a dock; or
 - c. Revise the application to include dredging of the mooring area and/or areas of ingress and egress; or
 - d. Withdraw the application. The lack of adequate water depth necessary to maintain the minimum vessel clearance shall be sufficient grounds for denial of a permit.
- 8. No more than one (1) dock or pier shall be located at a single-family residence or at an upland residential parcel of property zoned for single-family use. It shall not be used for the purpose of mooring more than two (2) vessels unless use is shared with an adjacent riparian property upon which no dock or pier exists. The two (2) vessel restriction shall not include personal watercraft, or canoes, kayaks, rowboats, or other similar vessels. For the purposes of this section, a riparian easement holder, where the lawfully written and executed easement specifically provides for constructing, maintaining and utilizing a dock or pier, is deemed to have sufficient interest in upland property to obtain a permit for dock construction, subject to all other applicable criteria as stated herein.
- 9. No water-dependent structures located adjacent to shorelines that front on the Gulf of Mexico shall be approved under minor permits. Such structures shall only be reviewed as a major permit application.
- 10. No living, fueling, or enclosed storage facilities (except boathouses constructed in accordance with the provisions of this section) shall be located over the water, except that fueling facilities may be authorized only as part of a major permit for a commercial marina operation.
- 11. Should the design of a new structure protrude into the waterway where there is a reasonable potential for creation of a marine navigational hazard, or if the dock extends beyond other docks in the area, adequate reflective material and/or safety lighting shall be

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installed at the end of the dock or mooring pilings. Safety lighting shall be operated every night from dusk to dawn. It shall be the responsibility of the property owner to maintain safety lighting on the dock for the life of the structure.

12. Docks and piers shall conform to the following dimensional and structural guidelines:

- a.** The preempted area associated with any dock authorized pursuant to this section shall be restricted to provide for a maximum square footage not to exceed ten (10) square feet for each one (1) linear foot of shore frontage within the parcel of property for which a permit is sought. For any docking facility authorized in association with a riparian easement, the preempted area allowance shall be limited so as not to exceed the total preempted area allowed for the parcel which the easement traverses.
- b.** The terminal platform, together with any catwalks or finger extensions, shall not exceed 250 square feet, nor eight (8) feet in width.
- c.** Only one access ramp shall be allowed at a single-family residence dock facility. The access ramp shall not exceed four (4) feet in width and may be required to include a handrail in order to preclude vessel moorage along the access ramp.
- d.** Marginal docks shall not exceed 250 square feet, nor eight (8) feet in width, and shall be designed to minimize impact to vegetated littoral zones.
- e.** Boathouses and vessel lifting devices shall be considered a part of a dock structure for the purposes of calculating maximum square footage of the preempted area.
Boathouses shall not exceed a maximum size of 250 square feet, including the terminal platform area. Maximum roof overhang shall be three (3) feet from the support pilings. Boathouses and vessel lifting devices must have open sides and shall not exceed fifteen (15) feet in height as measured from mean high-water line. Boathouses must have a pitched roof of not less than four feet horizontal to one foot vertical (4:1, horizontal: vertical) slope. All such roofs shall comply with the minimum design and construction standards contained within the current edition of the Florida Building Code and shall not contain cementitious tile shingles.
- f.** The minimum decking elevation over seagrass shall be five (5) feet above the MHWL. The decking and walking surfaces shall be designed and constructed to ensure a maximum of light penetration through the dock. Maximum plank width shall be eight (8) inches with a minimum of one-half (1 ½) inch spacing required between decking planks.
- g.** Piers shall have non-detachable handrails affixed to the perimeter of the terminal platform. A permanent sign shall be posted on the pier which reads "Fishing Pier-Motorized Vessel Access Prohibited."

13. Davits shall conform to the following design and location criteria:

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- a. The davits are mounted directly on wood pilings, concrete pilings, concrete pads, or a seawall;
 - b. Davits mounted on a seawall cap shall not be located within ten (10) feet of the neighboring riparian rights line, unless the applicant has obtained a sworn affidavit of no objection from the affected upland riparian owner;
 - c. Water depths at the proposed installation location comply;
 - d. The installation of the davits shall not define more than two (2) mooring areas for a single-family property.
14. Shoreline protection devices shall conform to the following design and location criteria:
- a. All new shoreline protection devices shall be located landward of the MHWL and all wetland vegetation.
 - b. Revetments shall be installed with appropriately designed filter media beneath the entire length and shall maintain a horizontal to vertical slope ratio of two to one (2:1) or less.
 - c. Revetments containing rip-rap shall be constructed only of clean, local, quarry rock.
 - d. All new shoreline protection devices shall require shoreline management, subject to the provisions listed.
 - e. No shoreline protection devices along the jurisdictional areas of the Myakka River shall be permitted.
15. All maintenance excavation and dredge and fill projects shall conform to the following criteria:
- a. Maintenance excavation depth shall be limited to -5.0 feet at mean low-water or the controlling depth of the existing waterway adjacent to the limits of the maintenance excavation, whichever is less.
 - b. All maintenance excavation projects require a professional hydrographic survey of the pre-dredged conditions, engineered plans, and a post-dredge hydrographic survey.
16. The Director is authorized to issue permits for construction of docks and piers that do not conform to the technical standards provided in this section where issuance of the permit is necessary to comply with Federal or State law, or where the Director determines that the proposed deviation is required by the unique characteristics of the site. In either case, all proposed work must meet the criteria provided.
17. Native habitat impacts and shoreline management:
- a. *Native habitats.* All permits issued pursuant to the provisions of this section shall be consistent with the **Open Space Element** of the City Comprehensive Plan.

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- b. *Impacts to native habitats.* All impacts to wetlands shall be consistent with the most current State-approved mitigation methodology.
 - i. Docks, piers, and similar structures. All docks, piers, and similar structures shall, to the maximum extent practicable, avoid impacts to native habitats. If impacts are unavoidable, the structure shall then minimize impacts by incorporating the designed standards provided in this section. Within mangrove swamp habitats, direct impacts to mangrove trees shall be avoided, and if unavoidable, minimized through site-specific design or mitigated.
 - c. *Shoreline management.* All permits issued pursuant to the provisions of this section shall be consistent with the following:
 - i. *Invasive species.* All permits shall require, to the maximum extent practical, removal of invasive species from the shoreline area to a minimum distance of thirty (30) feet landward of the MHWL.
 - ii. *Shoreline hardening.* Where practical, shoreline planting and enhancement projects shall be required for development orders proposing shoreline hardening.
 - d. *Invasive species removal, planting and monitoring requirements.* All permits shall be consistent with the following:
 - i. Invasive species removal and mitigation planting activities shall be completed within sixty (60) days following completion of construction activities.
 - ii. All vegetation shall be of nursery stock.
 - iii. No disturbance of existing native vegetation shall occur during plantings or invasive species removal. No disturbance to the slope of the existing bank shall occur, except in accordance with an approved plan.
 - iv. Trimming and alteration of mangroves shall be consistent with the provisions of the Mangrove Preservation Act (F.S. § 403.9321 et seq.), and shall be consistent with the provisions of the Sarasota County Tree Protection Ordinance.
 - v. In no instance shall a mitigation area be integrated with a structure where the future replacement of the structure being permitted would result in the destruction of the mitigation area.
- C. **Fees.** The City is authorized to set reasonable fees and charges for the implementation of this SOW Code. Such fees shall be set according to the fee schedule. All applications shall be accompanied by such filing fees and costs as have been established by the City for the filing, processing, advertising, and hearing of the application, as appropriate. The applicant shall be

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responsible for the full cost of professional services that may be obtained at the City's discretion during the review process to evaluate the permit application.

1. An applicant's failure to pay the requisite filing fees and costs may result in removal of the application from consideration by City Council or the Director for approval. No permit shall be issued until applicant has paid all fees associated with outside professional services deemed necessary to perform reviews of minor and major permits.
2. Applicants for after-the-fact authorization shall be assessed a fee of two (2) times the current fee, in addition to any fines and penalties assessed, providing the property owner(s) that committed the violation still owns the property. A single fee shall apply to any new owners of the property.

2.8.5. *Violations and Compliance*

A. Purpose and Intent. The City has the authority to enforce any permit or stipulation, as well as, any provisions of this SOW Code, per the City Code of Ordinances and per provisions of F.S. Ch. 162.

1. Civil and Administrative.

- a. The Director may withhold issuance of a permit or deny an application or other authorization if there is an existing unresolved violation of the City's Code of Ordinances on the subject property.
- b. The Director will issue a stop work order when it has been determined that work at the site:
 - i. Is proceeding in violation of this section, a permit or other authorization issued hereunder or proceeding without any required authorization; or
 - ii. Poses an imminent and significant hazard to the public health, safety, or welfare, or to the environment.
- c. The City may issue an after-the-fact authorization to correct a violation.
 - i. The Director has the authority to review and approve after-the-fact activities that meet all of the standard approval and technical criteria for minor permits contained within this SOW Code.
 - ii. All after-the-fact activities requiring a major permit shall only be reviewed by City Council.

2. Insurance Requirements. All activities covered under this section, inclusive of exempted work in this section, require the primary contractor to carry a U.S. Longshore and Harbormasters Act rider on their workers compensation coverage (NCCI class code 6006F). A contractor's workers compensation exemption does not apply to this type of

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work. Additionally, if any vessels are utilized in the construction of above mentioned work, proof of U.S. Jones Act coverage will be required.

3. **Licensure Requirements.** All activities covered under this SOW Code, inclusive of exempted work in this SOW Code but not including items in subsection 2.8.3.H.1.,2., 5., and 6., require the primary contractor to hold a valid contractor's license. Qualifying licenses for this type of work are restricted to Florida State Certified General Contractors, Florida State Certified Building Contractors, Florida State Certified Marine Contractors, and marine specialty contractors registered with the City.
4. **Enforcement and Penalties.** A violation of any provision of this SOW Code shall be processed according to Section 1-14, of the City Code of Ordinances and per provisions of F.S. Ch. 162. Each day of any such violation shall constitute a separate and distinct offense.
5. **Enforcement of Code by Other Means.** A violation of any of the provisions of this SOW Code or of any regulations adopted or permit conditions approved pursuant to this SOW Code shall be punishable in the same manner as a misdemeanor as provided by law.

2.8.6. Minor and Major Permit Stipulations and Conditions

- A. **Purpose and Intent.** Every minor and major permit defined in this SOW Code, shall include the following general conditions. Additional conditions may be added by City Council and the Director, as necessary. All conditions shall be listed on the approved permit:
 1. By accepting the permit, the applicant(s) hereby accepts all conditions herein and agrees to abide by them.
 2. The permit authorizes the named owner(s) to perform the proposed work. Should the property change ownership prior to commencement of construction, the new property owner(s) must submit an ownership transfer affidavit prior to commencing construction. The affidavit shall state that the new owner(s) shall abide by all permit conditions.
 3. A copy of the permit (containing the approved stamped plans) shall be located on-site throughout the entire operation at a visible and readily accessible location to the shoreline area.
 4. All work must be as shown on the approved plans and within the conditions of the permit.
 5. All permits are conditioned upon the prohibition of propeller dredging. Propeller scour of the submerged bottom is a violation of Federal and State law.
 6. No commercial and/or revenue-generating activities are allowed within the mooring area(s) unless authorized by the State or the City.

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7. The applicant(s) shall hold and save the City and its staff harmless from any and all damages, claims or liabilities which may arise by reason of the activities authorized by the permit or any use of the permitted structure.
8. This permit does not convey to the owner(s) or create for the owner(s) any property right or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the owner(s) or convey rights or privileges other than those specified in the permit and in accordance with the LDC.
9. If evidence of the existence of historical resources is discovered or observed at the development site(s) after final approval, but during site development activities, all work in the affected area shall cease immediately and the requirements of Section 7.11 of the LDC shall be complied with.
10. If any human-skeletal remains or associated burial artifacts are discovered at the development site or during development activity, all work in the area shall cease immediately and the owner(s) (or designee) shall contact the police department, the City Manager and, if applicable, the Florida Division of Historical Resources office. Pursuant to F.S. Ch. 872, it is unlawful to disturb, vandalize, or damage a human burial site.
11. Trimming and alteration of mangroves shall be consistent with the Mangrove Trimming and Preservation Act, F.S. § 403.9321 through 403.9332. Any red (*Rhizophora mangle*), black (*Avicennia germinans*), and white (*Laguncularia racemosa*) mangrove trimming beyond that associated with this permit requires a permit from the Florida Department of Environmental Protection.
12. Impacts to animal species listed by State and/or Federal agencies as endangered, threatened or of special concern, are not authorized by this permit. If evidence of a listed species is discovered or observed prior to or after the commencement of clearing of vegetation or earthmoving, that may not have been identified or observed prior to the issuance of this permit, all clearing and earthmoving onsite shall cease immediately. The permittee shall consult with the FWC and/or the U.S. Fish and Wildlife Service regarding necessary protection measures and provide written evidence of such consultation to the City prior to resuming work.
13. The issuance of City approvals does not relieve the owner(s) from any other permitting requirements of the U.S. Army Corps of Engineers, the Florida Department of Environmental Protection, the Southwest Florida Water Management District, or any other concerned local, State, or Federal agency, where applicable.
14. All permit conditions herein, related to post-construction activities (such as usage, maintenance, monitoring) shall remain in effect throughout the life of the subject structures.

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15. Failure to comply with any condition of this permit shall constitute a violation of this SOW Code and shall be punishable as provided in this SOW Code.
16. The permittee will instruct all personnel associated with the proposed work of the potential presence of manatees and the need to avoid collisions with manatees. Should manatee(s) be harmed, harassed, or killed during the project construction due to disregard for permit conditions or negligent operations, the permittee and/or contractor will be held responsible.
17. Siltation barriers and turbidity curtains shall be required for in-water and near-water work. Barriers and curtains will be made of material in which manatees cannot become blocked or entangled and must be properly secured, and regularly monitored to avoid manatee entrapment.
18. All vessels associated with the project and located within 300 feet of the project shall operate at no wake/idle speeds at all times. All vessels will follow routes of deep water whenever possible.
19. If manatees are observed within 300 feet of the project area, all appropriate precautions shall be implemented to ensure manatee protection. If manatee(s) move closer than fifty (50) feet to equipment, the equipment shall be immediately shut down.
20. Any collision with and/or injury to a manatee shall be reported immediately to the FWC.
21. Temporary manatee awareness signs shall be installed and maintained consistent with Federal and State permitting requirements.
22. The contractor shall keep a log detailing manatee collisions, or injury to manatee(s) should they occur. Following project completion, a report summarizing incidents will be submitted to the Florida Department of Environmental Protection, Marine Mammal Section and the FWC.
23. All construction activity associated with permits issued under the provisions of this SOW Code shall not cause shoreline erosion, unreasonable interference with navigation, or poor water quality.
24. Following completion of all authorized work, the permittee or contractor shall provide written certification and as-built plans to the Director that the structures or other alterations have been completed in accordance with the authorized plans.

2.9. Coastal High Hazard Area Development

- A. **Purpose and Intent.** The purpose and intent of this section is to implement the City Comprehensive Plan. The Coastal High Hazard Area (CHHA) is defined as the area below the elevation of the Category 1 storm surge line as established by a Sea, Lake, and Overland Surges

from Hurricanes (SLOSH) computerized storm surge model. The CHHA is identified in the City Comprehensive Plan.

B. Development Standards.

1. **Private Roads.** Roads or other infrastructure located within the CHHA must be privately maintained.
2. **Density and Intensity.** Increases in densities or intensities shall not be permitted in the CHHA beyond those depicted on the Future Land Use Map of the City Comprehensive Plan. Properties destroyed by natural disasters or similar events may be restored to a pre-existing nonconforming state regarding density and intensity (see Section 8: Nonconformities of the LDC).
3. **Prohibited Uses.**
 - a. Water and sewer treatment plants, industrial holding ponds, and other potential pollution sources within the coastal high hazard area are prohibited.
 - b. New Hospitals, Assisted Living Facilities (ALF), Independent Living Facilities (ILF), and Community Care Facilities (CCF) shall not be permitted in the CHHA.
4. **Construction.** Construction within the CHHA shall meet storm and flood-proofing standards exceeding those required for a 100-year storm and utilize flood-resistant development techniques.
5. **Design Specifications.** It is required that new development and redevelopment in areas that are at high risk of flooding due to storm surge, high tide events, flash flood, stormwater runoff, and the related impacts of sea level rise incorporate building design specifications, engineering solutions, site development techniques, and best management practices that may reduce risk and losses due to flooding. Examples of best management practices include:
 - a. Buildings supported on piles, drilled shafts, caissons, or other deep foundations (including columns, and shear walls) when foundation depth takes into account erosion and local scour.
 - b. Stem walls supporting floors and backfilled with soil or gravel are allowed in CHHA if designs provide for the effects of local scour and erosion.
 - c. Erosion control structures (bulkheads, seawalls, revetments) must not be attached to buildings or direct floodwater into or increase flood forces or erosion impacts on structures.
6. **Site Configuration.** All new development shall be reviewed to meet the following standards:
 - a. Developments within the CHHA shall configure site plans as to preserve open space lands in areas most prone to storm and flood events for purposes of recreation, habitat

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protection and enhancement, flood hazard management, public safety, and water resources protection;

- b. All public utilities including but not limited to sewer, gas, electric, and water systems shall be located and constructed to minimize flood damage;
- c. Any above ground tanks shall be elevated and attached to a supporting structure that is designed to prevent flotation or collapse during a flood.

- 7. **Setback Requirements.** Setback requirements for all coastal property development within the CHHA shall use the State’s Coastal Construction Control Line (CCCL) and Mean High-Water Line (MHWL) fifty (50) foot Setback, defined by F.S. § 161.052 and 161.053, and Chapter 62B-33, F.A.C.
- 8. **Hurricane Shelter Space.** Proposed development and redevelopment in coastal areas, including the CHHA, that increase the number of residential units are required to mitigate the impact on hurricane shelter space demands based on the shelter space LOS as identified in the City Comprehensive Plan.

2.10. Stormwater Management

A. Purpose and Intent. Recognizing the potential environmental impacts of stormwater facilities, the City shall require new developments utilize stormwater to meet the provisions of this section. Low Impact Development (LID) **and Regenerative** practices, including but not limited to shallow bioretention, pervious pavements, stormwater harvesting, green roof stormwater treatment systems, rainwater harvesting, **and** detention with biofiltration, **and beneficial reuse of indigenous soil biology and organic carbon** shall be considered as a stormwater approach that requires a suite of hydrologic controls throughout a site and integrates a series of treatments to replicate natural functions of the predevelopment landscape.

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B. Development Standards.

- 1. Stormwater plans for new development shall minimize stormwater system overflow during storm events and reduce water quality impacts to receiving waters, with particular attention to mitigating direct runoff and outfall into the Gulf of Mexico through effective stormwater management programs and innovative control technology.
- 2. Stormwater plans shall address the application of the following site-specific suite of LID integrated management practices to be applied for stormwater facilities for any new development. LID practices shall include:
 - a. Preserving existing site features that facilitate predevelopment hydrologic functions;
 - b. Minimizing generation of runoff from impervious surfaces;
 - c. Promoting distributed retention and treatment;

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- d. Capturing and reuse of any stormwater on site; and
 - e. Promoting erosion prevention techniques and use of aquatic plants to aid in filtration and erosion prevention; and
 - f. Minimizing onsite disturbances.
3. It is unlawful to drain or discharge into any waters of the City that may cause a nuisance or sanitary nuisance.
 4. A Stormwater Pollution Prevention Plan, in accordance with Environmental Protection Agency, shall be certified prior to commencement of construction.
- C. Stormwater Design Standards.** Stormwater design shall include the following:
1. Provisions for slope erosion including but not limited to installation of riprap, other materials to minimize bank erosion; and
 2. The use of aquatic plants **evenly distributed** around the **entire** stormwater pond perimeter.

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2.11. Additional Environmental Considerations

2.11.1. Wellhead Protection

- A. Purpose and Intent.** This section intends to preserve and ensure the availability and quality of safe drinking water in the City. The regulations in this section shall protect large capacity wells and aquifer recharge areas from potential contamination due to the proximity of specific uses.
- B. Applicability.** This section shall apply to all non-residential and multifamily uses, and the expansion of any non-residential structure or impervious surface which falls within a Wellhead Protection Zone or within an aquifer recharge area as recognized in the City Comprehensive Plan.
- C. Development Standards.**
1. **Wellhead Protection Zones.** Wellhead Protection Zones shall be recognized as a radius of 500 feet from each public potable water wellhead possessing pumping capacities of at least one million gallons per day.
 2. **Prohibited Uses.** Prohibited uses and activities within the Wellhead Protection Zones shall include:
 - a. Mining/Resource Extraction;
 - b. Heavy Industrial;
 - c. Wastewater treatment plants;
 - d. Treatment, storage, disposal, and transfer facilities for hazardous wastes;
 - e. Chemical and hazardous material storage tanks;
 - f. Industrial wastewater;
 - g. Reuse water applications; and

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- h. New Class I through Class VI injection control wells.
- 3. Any use listed below which resides within a Wellhead Protection Zone shall be subject to additional water monitoring/testing which may require installation of additional monitoring well(s) accessible by the City.
 - a. Light Industrial & Advanced Manufacturing
 - b. Research & Development
 - c. Major Vehicle Service
 - d. Minor Vehicle Service
 - e. Car Wash
 - f. Convenience Store With Fueling Stations

2.11.2. *Pollutants and Hazardous Substances Review Requirements*

- A. **Purpose and Intent.** All new development and redevelopment shall require a narrative addressing the potential ground contaminants through prior uses of the property that could result in adverse health impacts for humans and the environment.
- B. **Pollutant and Hazardous Substance Review Plan.** Past agricultural uses involving chemicals, industrial sites that may have produced or harbored hazardous waste, or sites where potentially contaminated fill or underground storage or facilities which were regulated as hazardous waste generators under the Resource Conservation Recovery Act (RCRA) was placed, will require the following:
 - 1. An Environmental Audit of the property;
 - 2. A narrative of measures needed to remediate any condition of environmental concern if required by the Florida Department of Environmental Protection;
 - 3. Soil and/or ground water sampling at the time of site and development plan or preliminary plat; and
 - 4. Phase I or Phase II Environmental Site Assessment Report including any preliminary contamination assessment plans or reports.

2.11.3. *Coastal Construction Control Line*

- A. **Buildings and Structures Seaward of the Coastal Construction Control Line.** If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a special flood hazard area:
 - 1. Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or Florida Building Code, Residential Section R322.

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2. Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and constructed to comply with the intent and applicable provisions of Chapter 88 of this code and ASCE 24.

2.11.4. *Construction or Excavation Seaward of the Gulf-Beach Setback Line*

- A. **Purpose and Intent.** No construction or excavation shall be undertaken within the shoreline hazard area, which is defined as the area seaward of the Gulf-Beach Setback Line. This prohibition is intended to:
 1. Protect the coastal areas of the City directly exposed to the Gulf of Mexico from erosion and flooding;
 2. Minimize future public expenditures for flood and erosion control measures;
 3. Minimize future public expenditures for relief and/or restoration of projects following natural disasters or gradual erosion;
 4. Ensure public access along the public beaches of the Gulf of Mexico;
 5. Minimize erosion damage to adjacent property resulting from manmade structures;
 6. Protect beaches, beachfront dunes, beachfront bluffs, and beachfront vegetation necessary for maintaining shoreline stability; and
 7. Ensure that coastal property and coastal waters retain their economic recreational and aesthetic value for coastal property owners and the general public.
- B. **Exceptions.** The following exceptions will be considered if proof of receipt of the applicable State and Federal permits or exemptions is provided to the City prior to commencement of construction activity:
 1. This prohibition on construction or excavation seaward of the Gulf-Beach Setback Line shall not apply to any modification, maintenance or repair of any existing structure; provided, however, that such modification, maintenance or repair is undertaken within the limits of the existing structure and does not require, involve or include any additions to, or repair or modification of, the existing foundation of that structure. The Building Official may authorize a modification or repair involving seawalls or additions and enclosures below the first dwelling floor or lowest deck of the existing structure upon receipt of an application from the owner of the property and upon the consideration of facts and circumstances, including adequate engineering data concerning shoreline stability and storm tides related to shoreline topography, design features of the proposed structures or activities, and potential impacts of the location of the structures, including effects upon the beach-dune system, which, in the opinion of the building official, clearly justify such a permit. State permission or approved exemption must be provided to the city prior to construction or excavation seaward of the Gulf-Beach Setback Line.

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2. Catwalks, stairs, footbridges, decks and other such similar structures designed to protect the dunes and beach vegetation while providing access to the beach may be constructed seaward of the Gulf-Beach Setback Line subject to all other applicable regulations. State permission or approved exemption must be provided to the City prior to construction of catwalks, stairs, footbridges, decks and other such similar structures prior to issuance of building permit.
3. The provisions of this subsection may be temporarily waived by the City Manager where an emergency is declared to exist. In this instance, the City Manager may authorize fill, temporary construction, excavation or any other action deemed necessary to protect life or property.

SECTION 3. TREE PRESERVATION, PROTECTION, AND REPLACEMENT

3.1. General

- A. The intent of this section is to provide a uniform standard for the protection and replacement of trees on all property within the City, which require the issuance of a development permit or other activities, which necessitate a tree permit in accordance with this section. As communities continue developing, the construction and renovation of buildings, roads, parking lots, and other infrastructure is required to accommodate this growth. The value of a healthy urban tree canopy is often overlooked and greatly underestimated in the interest of short-term costs. For this reason, tree preservation, protection, and tree replacement regulations are necessary. The purpose of these regulations is to balance the need to provide space for community growth with the need to protect natural tree and plant communities and to replace trees lost to development. Florida-Friendly urban tree communities provide valuable environmental, economic, and aesthetic benefits to the citizens of Venice. The preservation, replacement, and management of trees and the urban tree canopy are a vital part of sustainable community growth and the long-term well-being of the City.

3.1.1. Background

- A. Prior to the enactment of these regulations, all tree permitting and enforcement within the City was administered and enforced by Sarasota County through interlocal agreement and incorporation by reference of Sarasota County Ordinance No. 83-44, as amended.

3.1.2. *Transition from Sarasota County Jurisdiction*

- A. In recognition of the longstanding regulation by Sarasota County, and to address active and outstanding permits and violations of Sarasota County tree regulations, the provisions in this Section shall govern the transition of authority to the City.
 - 1. Consistent with Article XVIII. Trees, Chapter 54 of the Sarasota County Code of Ordinances, the City is enacted its own permitting regulations for the preservation, protection, and replacement of trees in the City.
- B. For all documented and currently valid Sarasota County tree permits or written authorization by Sarasota County for altering land within the City under the County’s tree regulations, the following apply:
 - 1. All tree permit applications and authorizations under review or issued by Sarasota County as of the effective date of this Chapter shall remain under the jurisdiction of Sarasota County.
 - 2. An applicant may choose to withdraw an application, issued permit, or authorization with Sarasota County and apply to the City for a tree permit after notifying the County in writing.

3.1.4 *Administration*

- A. The City Arborist shall be responsible for carrying out the provisions of this Chapter including the issuance of permits under the direction of the Director.
- B. The Director may direct any application for a permit under this section to the Planning Commission for final action.
- C. Fees: The City may establish reasonable fees and charges for the implementation of this section. Such fees shall be set by resolution.
- D. Applicability and Interpretation.
 - 1. In the application and interpretation of this section, all provisions shall be considered minimal requirements and construed liberally to effectuate the purposes of this section.
 - 2. This section is not intended to repeal, abrogate, or impair any existing statutes, laws, ordinances, easements, covenants, or deed restrictions that impose more stringent restrictions on the protection or removal of trees.
 - 3. Where this section conflicts with or overlaps another ordinance or statute, whichever imposes the more stringent restrictions for the protection of trees shall prevail?
 - 4. Where any provision of this section refers to or incorporates another provision, ordinance, statute, rule, regulation, policy, official publication, or other authority, it refers to the most current version, incorporating any renumbering thereof or amendments thereto.
 - 5. This section shall be applicable to all property within the City.

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- E. Simultaneous Reviews. In the event that an applicant seeks authorization to conduct activities that are subject to overlapping code provisions from different City Code of Ordinances, City staff shall perform simultaneous reviews to the greatest extent practical.
- F. Listed Species. In cases where impacts to Listed Species may occur, prior to any activities that could disturb listed species or their habitat, applicants shall be required to consult with the appropriate Federal and State agencies, to use recognized sampling techniques as defined by accepted methodology of the agency to identify listed species, prior to any activities that could disturb listed species or the habitat.
- G. Appeals. Any person aggrieved by the administration or interpretation of the terms of this Section may appeal to City Council, which after a hearing with notice to the appellant, may reverse, affirm, or modify, in whole or in part, the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Director from whom the appeal is taken. Any action pursuant to this Section shall not stay any enforcement proceedings.

3.2. Prohibitions and Exemptions

3.2.1. Prohibitions

- A. Unless otherwise exempted or authorized in a tree permit in accordance with this section, no person shall:
 1. Engage in tree removal;
 2. Engage in tree relocation;
 3. Initiate development when a tree exists on a property;
 4. Cause irreparable injury to a Protected, Heritage or Venetian tree;
 5. Cause irreparable injury to or prune a tree within a Canopy Road Protection Zone within a right-of-way.

3.2.2. Exemptions

The following are exempt from this section:

- A. Work during or after a declared state of emergency declared by the City that has been exempted from this section by the Mayor or City Council and/or the City Manager as appropriate.
- B. Removing trees from nurseries and botanical gardens, which are being grown for retail or wholesale.
- C. The construction of telecommunication towers.

- D. Removal of invasive plant, or diseased or infested trees upon receiving written confirmation from the City Arborist, Florida Forest Service, Professional Landscape Architect, or Certified Arborist.
- E. City maintenance affiliated with road, utility, and drainage projects.
- F. Operations by public utility companies and government agencies on public property and rights of way or easements or on sites for electric power substations and similar facilities.
- G. Bona fide agricultural uses/activities.
- H. Single Family zoned lots one-half (½) acre or less except:
 - a. Heritage or Venetian trees;
 - b. Conservation areas or easements;
 - c. Trees and vegetation within a Canopy Road Protection Zone (CRPZ).
- I. Tree pruning, trimming, or removal on residential property pursuant to F.S. § 163.045.

3.3. Permitting

3.3.1. Tree Permit Application Requirements

- A. *Tree Permit Required.* Unless otherwise exempt from this section, a tree permit is required for all development and any changes to property involving the removal of or impacts to Protected trees, including Heritage, Venetian, and Canopy Road trees. Tree permits shall be displayed and located on the subject property visible from the adjoining road or easement providing access to the property and be accessible by City staff at all times for the duration of the permit.
- B. *A completed application and the applicable fee.* The completed application along with the applicable fee, and any other information deemed appropriate by the Planning and Zoning Director or his designee to effectuate the review of the application consistent with the requirements and standards of this section.
- C. *Tree Protection and Replacement Plan.* Unless otherwise exempted, Tree Protection and Replacement Plans shall be prepared by a Professional Landscape Architect or Certified Arborist and must provide the following information:
 - 1. A complete tree survey and inventory of trees within the subject property for all development that is not exempt pursuant to Section 3.2.2. The survey shall show all trees measured twenty-four (24) inches DBH or greater on the subject property; and all Protected trees being preserved and counted to satisfy tree replacement requirements. For projects where twenty-five percent (25%) or more of the property acreage is left undisturbed, the tree survey and inventory may be completed for the identified project area and an additional fifty (50) feet offset within the property lines (see Exhibit 5 below):

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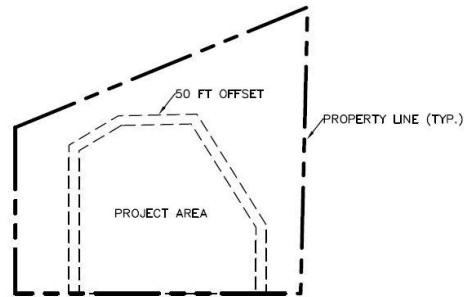


Exhibit 5 (above)

2. An inventory of identified trees by type and size (in DBH).
 3. A copy of the site plan, showing proposed buildings, grading, streets, access ways, sidewalks, hardscape, proposed and existing utilities.
 4. Methods for tree protection including fencing and retaining walls.
- D. After the submission of the plan, the City Arborist or designee appointed by the Director will perform a site inspection. The Tree Protection and Replacement plan shall provide sufficient information and detail to demonstrate that all applicable requirements and standards of this section are fully satisfied.
- E. Access to Property: Active permit applications shall constitute authorization from the property owner for the appropriate City staff to conduct site inspections and compliance inspections of the subject property for the duration of the permit.
- F. After the Fact Permits: Any person who conducts an activity that requires a tree permit, without first obtaining a tree permit, shall be required to obtain an “after-the-fact” tree permit and/or mitigate the impact in accordance with this section. Mitigation shall not preclude nor be deemed a substitute for prosecution of violations of the provisions of this section.
1. Mitigation: For after the fact permits involving Protected trees, mitigation shall be the number of tree inches removed or irreparably injured. For after the fact permits involving Heritage, Venetian, or Canopy Road trees, mitigation shall be two (2) times the number of tree inches removed or irreparably injured.

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3.4. Tree Planting, Preservation, Relocation, and Replacement

3.4.1. Protected Trees

- A. The following are protected trees:
 - 1. Trees planted or preserved as part of an approved binding master plan, site and development plan, preliminary plat, building permit, tree permit, or construction plan.
 - 2. Any tree over four (4) inches DBH, unless an invasive or exotic plant of concern identified by the Florida Exotic Pest Plant Council (FLEPPC).
 - 3. Sabal Palms (*Sabal palmetto*) with minimum six (6) foot clear trunk (CT).
 - 4. Any tree utilized by protected wildlife species for reproduction or permanent cover.
- B. Protected trees identified for removal on the tree removal permit application shall be replaced with new planted trees or transplanted trees.

3.4.2. Heritage Trees and Venetian Trees

- A. Designation of a Venetian Tree:

Venetian trees on private property shall be nominated by the owner of the property where the tree is located. Citizens and City staff may nominate trees on City owned property. Nominations for trees with overhanging canopy (branches) onto adjoining properties must also include written consent to the nomination from all property owners where the overhanging canopy occurs. Tree nominations will be directed to the City Arborist for review. The City Arborist will prepare a brief report detailing attribute(s) and a description of the proposed tree(s). The report will provide technical guidance to City Council on the health, condition, location, and structure of the proposed tree(s) and the tree(s) suitability for preservation. Should Venetian tree designation be granted by City Council, the tree or group of trees shall be placed on the registry of Venetian trees maintained by the City Arborist and afforded the protections as stated in this section.
- B. Venetian Tree Incentives and Conditions:
 - 1. Annual Consultation: The City Arborist will provide an annual consultation to the property owner where the designated Venetian tree is located to offer guidance with the management and maintenance of the tree.
 - 2. Pruning Reimbursement Program: To the extent funds are available, the owner of private property where a designated Venetian tree is located; or adjoining owner(s) of private property where the overhanging tree canopy occurs, may be awarded a pruning reimbursement of up to \$250 by the City to offset the cost of trimming the designated Venetian tree. One (1) pruning reimbursement per property owner per fiscal year will be

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considered and a maximum of five (5) reimbursements per fiscal year may be awarded.

Implementation of the Pruning Reimbursement Program shall be as follows:

- a. Request shall be submitted to the City Arborist within forty-five (45) days of completion of the trimming.
 - b. Trimming must be conducted under the supervision of a Certified Arborist in accordance with “ANSI A (300)” standards for tree care.
 - c. The applicant shall provide a paid invoice stating the amount paid, the ISA certification number of the supervising arborist, and a brief narrative of the nature of the trimming work performed. The City Arborist shall inspect the trimmed Venetian tree for compliance with “ANSI A (300)” standards and confirmation of the nature of the work performed.
3. Pruning Fee Waiver: If a pruning permit application is required (removal of branches ten (10) inches in diameter or larger), the pruning permit fee shall be waived. To qualify for the pruning fee waiver, the work must be conducted under the supervision of a Certified Arborist in accordance with “ANSI A (300)” standards for tree care.
 4. Venetian Tree Plaque: Provided funds are available, for Venetian trees on public property a plaque may be placed near the designated Venetian tree(s) stating the botanical and common name, size and a brief description of the tree. Provided funds are available, for Venetian trees on private property, the owners of the property may request a similar plaque to be provided by the City and placed on the property. A maximum of five (5) plaques per fiscal year may be provided. Venetian tree plaques shall not be subject to the City’s sign standards.
- C. Changes in property ownership shall not affect the Venetian tree designation.
- D. Pruning Heritage and Venetian Trees:
1. Unless exempt, a tree permit is required for the removal of a designated Heritage or Venetian tree branch ten (10) inches in diameter or larger measured twelve (12) inches from the branch union. Any tree trimming not performed in accordance with the “ANSI A (300)” standards for tree care will be subject to fines and penalties established in this section.
 2. Applications for pruning shall provide:
 - a. A current photograph of the tree.
 - b. A sketch plan of the tree and branch(s) to be removed with dimensions, or a current aerial photograph of the property where the tree is located. The sketch or photo must provide sufficient information to identify and describe the tree branch(s) to be removed, species of tree, a description of the branch to be removed, and reason for removing the branch.

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3. The City Arborist shall inspect the tree and property for approval or denial and may request an onsite meeting with the contractor or owner prior to the issuance of a permit. Violations of this permit requirement will be subject to fines and penalties established by the City in accordance with this Section.
- E. Removal of any Heritage and Venetian Tree:
1. Unless exempt, a tree permit to remove a Heritage or Venetian tree is required. Documentation by a Professional Landscape Architect or Certified Arborist is required to justify the tree removal subject to Section 3.4.7.
 2. Heritage or Venetian trees may be removed if the tree is located in an area where a structure or improvement will be placed and the applicant provides a report bearing the signature of an architect, Professional Landscape Architect, or licensed engineer providing a determination that the proposed structure or improvement cannot be reasonably redesigned to preserve the Heritage or Venetian tree. The criteria in Section 3.4.7 shall be utilized in determining whether to approve an application for tree removal.
- F. Replacement Tree Calculations for Heritage and Venetian Trees:
Heritage and Venetian trees shall be replaced at a ratio of one tree inch to one tree inch (1:1), unless otherwise approved by the City Arborist. If there is insufficient land area on a site to accommodate the proposed trees, the Applicant shall alternatively pay into the Tree Mitigation Fund equivalent to the tree inches not able to be accommodated on the site.
- G. Removal of Venetian Tree Designation:
Property owners where the Venetian tree exists or where the canopy overhangs shall have the right to petition City Council to remove the Venetian tree designation. Petitions shall be submitted to the City Arborist. The City Arborist shall inspect the tree(s) and provide a brief report to City Council of the health and condition of the tree prior to Council's final determination.

3.4.3. Removal of Required Trees

- A. For trees that were preserved or planted as part of a tree permit or approved landscape plan, problem trees as defined in Section 4 of this Chapter and confirmed by City staff, shall be replaced with a similar species unless directed otherwise by City staff. Replacement trees may be planted on the same site or other common areas, such as around drainage ponds, near a clubhouse, a park or entry, or addressed through the Tree Mitigation Fund as provided in Section 3.6.

3.4.4. Tree Planting, Mitigation, and Replacement Standards

- A. Tree planting calculations provided herein provide minimum standards for tree planting, replacement, and mitigation on a per acre basis or percentage thereof (see Formula and Examples provided in 1.b. below). All properties must meet the minimum standards, or where the site cannot adequately accommodate the required number of tree inches, provide mitigation by payment to the City’s Tree Mitigation Fund. The required tree inches are based on the subject property zoning designation as follows:
 - 1. All zoning districts except industrial zoning districts: A minimum site/project area of forty (40) tree inches per acre of approved trees is required. This can be achieved as follows:
 - a. Preservation of existing trees (inches measured in DBH) to be preserved with no impact to the TPZ.
 - b. Planting new trees. Within a PUD zoning district or single-family platted developments, planting of new trees is restricted to common areas or rights-of-way only. It is not the intent of this restriction to prevent the planting of additional trees in excess of the required tree inches.

Formula: Total project area acreage (See Exhibit 5) x 40 inches = required tree inches per acre + Heritage Tree inches removed = total tree inches required

Example: 3.2 acres x 40 inches = 128 inches + 72 Heritage Tree inches removed = 200 total tree inches required

Example: 0.5 acres x 40 inches = 20 inches + 0 Heritage Tree inches removed = 20 total tree inches required
 - 2. All industrial zoning districts: A minimum of twenty (20) tree inches per acre of approved trees is required.
- B. Replacement Tree General Criteria:
 - 1. For the removal of Heritage trees and Venetian trees, the total caliper inches of replacement trees shall equal total DBH inches removed, unless otherwise approved by the City Arborist. For multi-trunked trees, the total DBH of the four largest trunks shall equal the replacement caliper inches. Unless otherwise stated in this section, new palms may be used only to replace protected palms removed.
 - 2. Tree species selected for planting are subject to City approval based upon site conditions including but not limited to: soil characteristics, soil volume, planting area size, and visibility.
 - 3. Heritage and Venetian trees that die due to grade changes and/or construction activity within five (5) years from the date of the tree permit final approval shall be replaced in accordance with this Section. The property owner is required to replace the tree upon confirmation by the City Arborist that the tree died as a result of the indicated activities.

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3.4.5. *Planted and Preserved Tree Species*

- A. All trees must be native to Florida or be Florida Friendly species as identified by UF/ IFAS Extension, latest Florida Friendly Plant Guide. For the purpose of this Chapter, the Florida Friendly Plant Guide shall determine large, medium, and small tree species. The available soil volumes as described in Section 3.5.2.K - Soil Volumes shall determine large, medium, and small tree species to be planted to the greatest extent possible. Minor deviations from the soil volume requirements may be allowed by the City Arborist.
- B. The following shall be required for all landscape development plans:
 - 1. At a minimum, seventy-five percent (75%) of planted trees shall be large and medium tree species, unless large or medium tree species are not suitable, as reasonably determined by the Director and/or Director’s designee in the area to be planted.
 - 2. Where ten (10) or more trees are to be planted, no single species shall constitute more than fifty percent (50%) of the total planting.
 - 3. All large and medium tree species shall be a minimum two and one-half (2 ½) inches caliper measured no closer than six (6) inches from the ground.
 - 4. All small tree species shall be a minimum of one and one-half inches (1 ½) caliper measured no closer than six (6) inches from the ground and be a minimum eight (8) feet in height from grade.
 - 5. No more than twenty-five percent (25%) of the required tree plantings or preserved trees counted towards the requirement may be of the *Pinus* (commonly referred to as Pine) species.
 - 6. All planted trees shall be Florida No. 1 or greater (Florida Grades and Standards for Nursery Plants, latest edition).
 - 7. Cabbage Palm (*Sabal Palmetto*) may be planted or preserved at a rate equivalent to three (3) palms to one (1) (3:1) required tree (two and one-half tree inches (2 ½)). Other Florida-Friendly palm species may be proposed at the same three to one (3:1) ratio for approval of the City Arborist. Palms shall not constitute more than twenty-five percent (25%) of the required tree inches. It is not the intent of this restriction to prevent the planting of additional palm trees in excess of the required tree inches.

3.4.6. *Incentives – Preservation of Existing Trees/Vegetation and Planting of New Trees*

- A. Preserved inches shall be credited to the total inches required by one or more of the following methods:
 - 1. Florida Friendly large tree species twenty-four (24) inches DBH and larger that will be preserved shall result in a credit of two (2) times their DBH. All invasive species within the

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TPZ shall be removed utilizing only hand-held power equipment. No heavy equipment is allowed within the TPZ unless approved by the City Arborist.

2. Florida Friendly medium tree species twelve (12) inches DBH and larger, and small tree species six (6) inches DBH and larger that will be preserved shall result in a credit of one- and one-half (1 ½) times their DBH. All invasive species within the TPZ for preserved trees shall be removed utilizing only hand-held power equipment. No heavy equipment is allowed within the TPZ unless approved by the city arborist.
3. Clusters of six (6) or more Protected trees with a continuous ground cover of Saw Palmetto (*Serenoa repens*) or other approved native understory plant community shall result in a credit of one (1) tree inch, per 1,000 square feet of Saw Palmetto or native understory to remain. This area must remain undisturbed except that all invasive species within the TPZ shall be removed utilizing only hand-held power equipment. No heavy equipment is allowed within the TPZ unless approved by the City Arborist.
4. New nursery-grown large and medium trees six (6) to eight (8) inches caliper, and small trees three (3) to four (4) inches caliper shall result in a credit of one- and one-half (1½) times their diameter.

3.4.7. *Criteria for the Preservation of Trees*

- A. Determining the suitability of a tree or tree clusters for preservation during the design and planning phase of site development is an important early step so that resources are not misallocated. To determine the suitability for preservation of Protected, Heritage and Venetian trees, the following criteria will be considered by the City Arborist:
- B. Location:
 1. Relationship to a building, structure and / or construction activity
 2. Grading impacts (cut and fill)
 3. Infrastructure conflicts (utilities, driveways, sidewalks, etc.)
 4. Susceptibility to wind and sun exposure
- C. Health and Condition:
 1. Appropriate and vigorous growth
 2. Existing decay in trunk, main branches, or roots
 3. Lightning damage
 4. Pruning errors (tree topping)
- D. Structure:
 1. Structural defects (cracks, decay, overextended branches, girdling roots)
 2. Stability of the tree (root health, leaning)
 3. Branch attachments

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E. Species:

Tree species shall meet Florida Friendly principles which: conserve water, reduce waste and pollution, create wildlife habitat and prevent erosion. The below species characteristics will be assessed in conjunction with using the appropriate species in the appropriate location;

1. Desirable species
2. Wind resistance
3. Pest resistant
4. Water efficient
5. Reduce and manage stormwater runoff
6. Meets desired aesthetic and / or environmental benefits

3.4.8. Mangroves and Seagrapes

- A. Trimming and alteration of mangroves shall be consistent with the Mangrove Trimming and Preservation Act, F.S. § 403.9321 through 403.9333.
- B. Trimming and alteration of Seagrapes (*Coccoloba uvifera*) waterward of the Coastal Construction Setback shall be consistent with the Beach and Shore Preservation Act F.S. § 161.242.

3.4.9. Canopy Road Designation

- A. City Council may designate roads as Canopy Roads by resolution after an advertised public hearing and may set standards for the implementation of this section by resolution. Requests for a Canopy Road designation can be made by City Council or staff, property owners residing on a potential Canopy Road, or residents of the City. Requests will be coordinated and brought to the City Council by the City Arborist for approval. Prior to the advertised public hearing, a written hearing notice shall be provided to all property owners of record adjacent to the potential Canopy Road and the registered neighborhood associations. The hearing notice shall detail the Canopy Road standards that would become applicable if the road is designated a Canopy Road. The public hearing notice shall be posted a minimum of fifteen (15) days prior to the hearing.
- B. To be eligible for designation as a Canopy Road, a road shall have the following characteristics:
 1. A minimum of 50 percent (50%) overhead coverage, per section of travel way as measured by branching, drip line, shadows, and other visual cues. Evaluation shall be based on tree canopy coverage as a percentage of overall travel way length, on canopy condition and composition; and
 2. A minimum of seventy-five percent (75%) Florida-Friendly species; and

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3. Be composed of one (1) or more contiguous road segments, regardless of whether they are differently named roads.
 4. Canopy Roads shall have appropriate signage to delineate the limits of the Canopy Road
- C. Canopy Road Requirements
1. Canopy roads shall have the appropriate signage to delineate the limits of the canopy road.
 2. Unless otherwise exempt, all utility companies having facilities within a designated Canopy Road must notify the City Arborist five (5) business days prior to conducting scheduled routine vegetation maintenance and tree pruning or trimming activities within a designated Canopy Road. All utility pruning shall conform to the “ANSI A (300)” standards for tree care.
 3. When more than twenty percent (20%) of the area within the TPZ is impacted; or when pruning of the crown of a tree within the CRPZ must be performed, the following arboricultural techniques are required:
 - a. Roots shall be severed cleanly utilizing equipment, tools and methods designed for root pruning. All root pruning activity shall conform the “ANSI A (300)” standards for tree care and shall be conducted under the direct supervision of a Certified Arborist. Tunneling or directional boring initiating and terminating outside the TPZ and to a depth of thirty-six (36) inches or more through the TPZ shall be exempt from these requirements. Under no circumstances will encroachment within the Root Plate zone be allowed.
 - b. All trimming of trees of branches larger than two (2) inches in diameter where the trunk of a tree is located within the CRPZ shall require a tree permit and shall be conducted under the supervision of a Certified Arborist. All pruning shall conform to “ANSI A (300)” standards for tree care.
- D. It shall be a violation of this section to cause irreparable injury to or prune a tree within the CRPZ in a manner inconsistent with standards contained within this section and “ANSI A (300)” standards for tree care.

3.5. Education and Best Management Practices

3.5.1. Education

- A. The City Arborist shall develop and conduct a public relations and education program to recognize and promote the preservation of trees within the City. This program shall provide the citizens of the City with the awareness and technical assistance necessary to preserve and plant trees within the City.

3.5.2. Required Best Management Practices

- A. The following Best Management Practices shall be applicable to all tree permits, unless specified otherwise herein. These standard Best Management Practices shall also be applicable to all activities that affect Protected, Heritage, and Venetian Trees, trees located within a TPZ and CRPZ, and regardless of whether a tree permit is required for the proposed activity.
- B. Heritage trees, Venetian trees, and Canopy Road trees located on property adjacent to the proposed development activity shall be protected as described in this section.
- C. Prior to commencing work and throughout the duration of the authorized activity, the owner, developer, contractor, or agent shall clearly mark with red flagging all trees proposed to be removed and shall erect barricades around all trees to be protected. The barricades must remain in place and be in good condition for the duration of the authorized activity. Protective barricades for protected trees shall be installed no closer than the outer edge of the designated TPZ of the tree. Barricades shall be placed no closer than three (3) feet from the trunk of palms. Barricades shall be constructed in a post and rail configuration or with orange barrier fencing and be no less than four (4) feet in height. The upright posts shall be a minimum of a two by two-inch (2"x2") wooden stake. Posts shall be implanted deep enough into the ground to be stable and extend a minimum height of four (4) feet above the ground. A minimum of a one (1) four-inch by one inch by eight feet (1"x 4"x 8') in length wooden board shall be used to connect the upright posts. The maximum distance allowed between upright posts is eight (8) feet. Silt barriers, hay or straw bales, or similarly effective erosion control barriers may be substituted and required in any area where erosion or siltation may cause damage to TPZ upon approval by the City Arborist. Barricades that result in greater protection may be substituted with the approval of the City Arborist. In all cases, the barriers must remain in place until the final finish grade is established at the end of the project or project phase, and all construction activity is completed. Damage to protection barriers and encroachments into the TPZ will be subject to the fines and penalties established in Section 3.1.4 and Section 3.7. Signs shall be posted at fifty (50) foot intervals for single trees or tree clusters of twenty (20) trees or less and; 100foot intervals for areas of more than twenty (20) trees; that clearly state potential fines and "Tree Protection Area, Keep Out".
- D. Throughout the duration of the authorized activity, the owner, developer, contractor, or agent shall not cause or permit the cleaning of equipment or material or the storage or disposal of debris, fill, waste materials such as paints, oils, solvents, asphalt, concrete, mortar, or any other material within any TPZ.
- E. No damaging attachment ropes or wires (other than supportive measures for a tree), signs, posters, handbills, tree permits, or other objects may be fastened to any tree except pursuant to

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authorization under the provisions of this section. No gaseous, liquid, equipment exhaust or solid substance which may be harmful to trees shall come into contact with any portion of the tree.

- F.** Where elevation changes are proposed, within the TPZ, the applicant will be required to justify the need for the elevation change and install retaining walls and/or provide accommodations for drainage unless the applicant demonstrates that such protection would be impractical. Where elevation changes are proposed within the TPZ of any Protected tree as defined in Section 3.4.1, the applicant will be required to install retaining walls and/or provide accommodations for drainage unless the applicant demonstrates such protection would be impractical. These root protection measures shall be in place prior to the deposition of fill, or excavation of soil within the TPZ. Tree species' tolerances for grade changes, size and age will be considered when locating tree wells and retaining walls. Tree wells or retaining walls will be required as applicable when grade changes of more than six (6) inches are needed within more than twenty percent (20%) of the TPZ. Tree well and retaining wall distances from the face of the trunk range from three-quarters (0.75) feet for each one (1) inch DBH for a construction tolerant species to one- and one-half (1 ½) feet for each one (1) inch DBH of mature or less tolerant species. The applicant will be required to present a report bearing the signature of a Certified Arborist or Professional Landscape Architect with a statement of minimal impact design. The applicant may also request a pre-application meeting with the City Arborist before submitting a design. Retaining walls shall be built with posts or pilings, shallow and small footers or footers of stone or sand to lessen the impact of cut or compacted roots. In cases where grade changes can be accomplished with less than 20 percent (20%) of the CRZ being impacted, the change should be as gradual and as far from the trunk face as possible with no more than six (6) inches of fill over 20 percent (20%) of the TPZ. Under no circumstances will fill be allowed over the root plate.
- G.** The City Arborist may conduct periodic inspections of the site during land clearing and construction to ensure compliance with this Chapter.
- H.** The City Arborist may allow certain activities to be conducted within the barricaded TPZ, upon a determination that the tree will not be adversely affected, such as driveways, swimming pool decks, and patio pavers.
- I.** If temporary equipment or vehicle access into the TPZ is required for construction activity, steps must be taken to protect the TPZ from compaction and damage. For short-term temporary access of three (3) weeks or less, a six (6) to twelve (12) inch layer of organic mulch in the area of encroachment shall be installed and maintained. For longer periods the applicant will be required to install and maintain a four (4) inch layer of mulch and place three quarter (3/4) inch plywood on the mulch layer to create a path for equipment or vehicles. Under no circumstances

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should these access paths be placed on or where they may impact the root plate. The City Arborist shall be informed and approve of any alterations to the original approved Tree Protection Plan. Violations will be subject to fines and penalties as established in the schedule of fees and charges per this Section.

- J. The use of posts, pilings, or a similar system shall be used as the construction method for structures within the TPZ. Continuous footers and stem walls shall not be installed within the TPZ unless approved by the Director and/or Director’s designee. These posts or pilings shall be engineered only as large as necessary to support the proposed structure. All efforts shall be made to reduce the impact to large roots and in no circumstances should the structure encroach on the root plate of a tree.
- K. No trenches are permitted within the TPZ without prior approval of the City Arborist. With approval of the City Arborist, hand dug trenches may be allowed and roots pruned cleanly as directed in “ANSI A (300) Part 8, Root Management Standard”. All efforts should be made to bypass the TPZ with underground utilities and irrigation lines unless tunneling methods are used a minimum of thirty-six (36) inches below the existing grade.
- L. Soil Volumes - Required Soil Volumes for Trees
 - 1. Large tree species, taller than forty-five (45) feet in height
 - a. Minimum open soil space 300 square feet or minimum uncompacted soil volume of 900 cubic feet to a depth not to exceed thirty-six (36) inches
 - b. No closer than four (4) feet from any pavement or curbing
 - c. Minimum planting space width is eight (8) feet
 - d. Minimum uncompacted soil depth thirty-six (36) inches
 - 2. Medium tree species, between twenty-five (25) to forty-five (45) feet in height
 - a. Minimum open soil space 200 square feet or minimum uncompacted soil volume of 500 cubic feet to a depth not to exceed thirty-six (36) inches
 - b. No closer than thirty-six (36) inches from any pavement or curbing
 - c. Minimum planting space width is six (6) feet
 - d. Minimum uncompacted soil depth thirty (30) inches
 - 3. Small tree species, less than thirty (30) feet in height
 - a. Minimum open soil space 100 square feet or; minimum uncompacted soil volume of 200 cubic feet to a depth not to exceed thirty-six (36) inches
 - b. No closer than twenty-four (24) inches from any pavement or curbing
 - c. Minimum planting space width is four (4) feet
 - d. Minimum uncompacted soil depth twenty-four (24) inches
 - e. Exceptions to the space requirements for some individual species may be granted by the City Arborist.

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4. The following are methods to achieve soil volume requirements for street trees in or near sidewalks, within plazas and parking lots:
 - a. Structural soil under pavement. CU Structural Soil™ is an aggregate soil developed and patented by Cornell University. Consisting of a combination of stone and soil plus additives. This product or an approved equivalent provides a highly compactable material that allows for root growth and may be used under pavement to provide the required soil volume for root space.
 - b. Suspended pavement. Modular soil cell systems designed to be assembled and placed under pavement may be used to provide root space. These systems are designed to support the pavement weight while providing uncompacted soil volume for tree roots.
 - c. Other soil volume system designs may be approved by the Director and/or Director’s designee.

3.6. Tree Mitigation Fund

- A. The City shall establish and maintain a dedicated Tree Mitigation Fund. Payments to the fund shall be in accordance with:
 1. Mitigation for trees illegally removed and not replaced.
 2. Mitigation for removal of Heritage or Venetian trees.
 3. Mitigation for required trees not planted as part of a tree permit or site development permit per Section 3.4.
- B. The City shall use the Tree Mitigation Fund for the following purposes:
 1. Tree planting on city property, limited to the cost of trees, landscaping equipment and associated installation, irrigation equipment incidental to the planting of trees, and for design by a Professional Landscape Architect to assure the safety, viability and appropriateness of such plantings.
 2. Expenses related to Venetian Tree and Canopy Road designations.
 3. Qualified Attainable Housing Projects. Provided funds are available, a maximum of fifty percent (50%) of the cost of the required trees for the project or \$10,000, whichever is less, may be granted by the City for an attainable housing project.
 4. Urban forest assessments and/or tree inventories within the City.
 5. Public education and tree planting Initiatives.
- C. Tree mitigation fund expenditures of \$25,000 or less shall require the approval of the City Manager. Fund expenditures of more than \$25,000 shall require the approval of City Council.

3.7. Enforcement

- A. Any Person violating any provision within this section or a stipulation/condition contained in a tree permit or a development permit that results in a prohibited activity shall constitute a violation of this section.
- B. Violations of this section will be enforced by the code enforcement process as established in Chapter 2, Article VI of the City Code of Ordinances.

SECTION 4. GENERAL DEFINITIONS

4.1 Defined Terms

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agriculture: A commercial enterprise using lands classified by the County Property Appraiser under the agricultural assessment provisions of F.S. § 193.461, for the production and marketing of agricultural products.

Artificial Light or Artificial Lighting: Any source of light emanating from a manmade device.

Beach: The area of unconsolidated material that is contiguous with the waters of the Gulf of Mexico and extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation.

Beach Access Point: Any path through or over the dune used by the general public or private property owners for the purpose of gaining access to the beach.

Beachfront Properties with Seawalls: Beachfront properties having protective seawalls and protective boulders (on the gulf side of seawalls) and not more than five feet of sandy beach.

Boundary Tree: Any tree located on an adjacent property with a critical root zone that will be impacted by proposed land disturbance activity on the subject property.

Caliper: The average trunk diameter in one quarter inch increments at a predetermined point for the purpose of grading nursery grown trees. For the purpose of this Chapter those points are: six inches from the soil line for trees up to and including four inches in diameter (caliper) and 12 inches from the soil line for trees larger than four inches in diameter (caliper).

Canopy Road Protection Zone (CRPZ): A designated section of City and county right-of-way and the adjacent private property extending up to 15 feet laterally from the right-of-way onto adjacent private property, but in no event extending greater than 15 feet laterally from the edge of the roadway.

Canopy Tree: Those trees that compose the top layer of canopy of vegetation and will generally reach a mature height of forty feet or more and mature crown spread of fifteen feet or more.

Canopy Tree, Large: A canopy tree taller than forty-five (45) feet.

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Canopy Tree, Medium: A canopy tree between twenty-five (25) and forty-five (45) feet tall.

Canopy Tree, Small: A canopy tree shorter than twenty-five (25) feet.

Certified Arborist: A professional certified by the International Society of Arboriculture (ISA) who possesses an active certification number and the technical competence through experience and related training to provide for or supervise the management of trees and other woody plants in the residential, commercial, and public landscape.

City Arborist: The City Arborist or an administrative official of City government designated by the Planning and Zoning Director to administer the provisions of this Chapter.

Clear Trunk: The portion of the trunk maintained free of large branches. The clear trunk is the lower portion of the trunk measured from the soil line up to the first major branch.

Coastal Construction Control Line: The line established by the State of Florida pursuant to F.S. § 161.053, and duly filed in the public records of Sarasota County Clerk of the Circuit Court, which defines that portion of the beach dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Conservation Area. An area of land protected from development or other impacts to the natural conditions.

Conservation Open Space: Protected open spaces (wetland, wetland buffers, coastal and riverine habitats), preserves, native habitats including those of endangered or threatened species or protected species, wildlife corridors, natural lands owned and managed by the City, Sarasota County, State (i.e. FDEP, SWFWMD) or a Federal Agency that do not qualify as Functional Open Space; rivers, lakes, and other surface waters, and aquifer recharge areas.

Critical Root Zone (CRZ): The minimum area required around a tree which must be preserved to provide the tree a reasonable chance to survive development activities. The CRZ is generally a concentric circle measured from the approximate center of the trunk of the tree with a radius of one foot for each one inch of tree DBH or to the drip line, whichever is greater. *Example:* A tree with a DBH of 20 inches would have a CRZ radius of 20 feet: $20 \times 1.0 = 20$ feet (radius)

Cumulatively illuminated: Illuminated by multiple artificial light sources that as a group illuminate any portion of the beach.

Development: The construction, redevelopment, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels; any mining, excavation, landfill, or land disturbance; and any nonagricultural use or extension of the use of land.

Development Permit: Any building permit, zoning permit, plat approval, rezoning, site and development plan, variance, or other action having the effect of permitting Development of land.

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Diameter at Breast Height (DBH): The diameter of an established tree trunk measured at breast height, which is 54 inches above the ground. When low branches or stems preclude measuring the trunk at 54 inches the smallest circumference of the trunk below the lowest branch or stem juncture shall be the measure of DBH. Trees that fork below 54 inches and have no discernable single trunk then DBH shall be the sum of the diameters of each trunk. Trees that fork at or below ground level, each stem shall be considered individual trees. (See Exhibit 1)

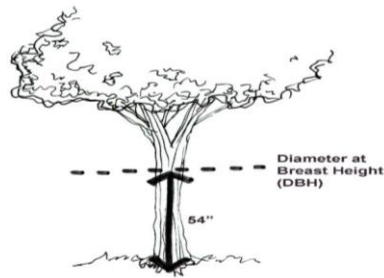


Exhibit 1 (DBH)

Directly Illuminated: Illuminated as a result of a glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source which is visible from the beach.

Director: The Director of Planning and Zoning manages the Planning and Zoning Department, or his successor to his duties, by whatever title designated, or his designee.

Drip Line: The circumference around a tree formed by the outermost branches or portion of the Tree crown to the ground. (See Exhibit 2)

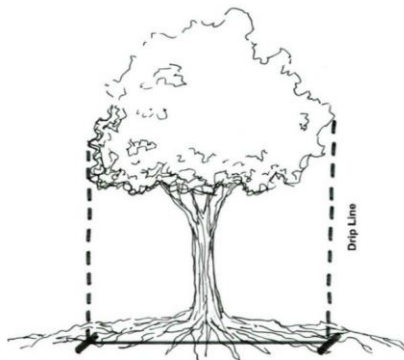


Exhibit 2 (Drip Line)

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Dune: A mound or ridge of loose sediments, usually sand-sized, lying landward of the beach and deposited by a natural or artificial mechanism.

Emergency: Any manmade or natural disaster that is specifically declared to be an emergency through formal action by the Council.

Existing Manufactured Home Park 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) was completed before July 30, 1971.

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.

Floodlight: A reflector-type light fixture which is freestanding or attached directly to a building or other structure and which is unshielded.

Florida Friendly Landscaping™: Planting comprised of low maintenance plants and using low maintenance sustainable practices.

Frontal Dune: The first natural or manmade mound or bluff of sand which is located landward of the beach and which has sufficient ground vegetation, height, continuity and configuration to offer protective value.

Ground Level Barrier: Any vegetation, natural feature or artificial structure rising from the ground which prevents beachfront lighting from shining directly onto the beach or dunes.

Hardwood Tree: Any tree that is not coniferous (not cone bearing or a needle leaf evergreen).

Heritage Tree: Any 30-inch DBH single trunk or 45-inch DBH multi trunk Florida Friendly Tree that has been determined by the City Arborist to have the characteristics as outlined in this Chapter or any tree designated a Florida State Champion, United States Champion, or World Champion by the Florida Forest Service or the American Forestry Association.

Historic Resource: Any archeological site, historical structure, historical cemetery, historical bridge, historical districts, landscapes, and linear features identified by the State of Florida Division of Historical Resources and determined to have historic significance by the State Historic Preservation Office (SHPO).

Illuminated: Exposed to light from an artificial light source that does not meet the approved specification of this Chapter in a way that produces brightness visible from the beach.

Indirectly Illuminated: Illuminated as a result of the glowing element(s), lamp(s), globe(s) or reflector(s) of an artificial light source which is not visible from the beach.

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Inspector: A designated City employee or an inspector that has been designated through an agreement with another entity to perform inspections required pursuant to this Chapter.

Invasive Plant: Any nonindigenous plant that grows aggressively enough to crowd out Native Plants. The List of Invasive Plant Species published by the Florida Exotic Pest Plant Council (FLEPPC), as it may be amended from time to time, is hereby adopted and incorporated herein by reference.

Irreparable Injury: Any action less than tree removal that results in irreversible or incurable harm to cause the unnatural decline or compromise stability of the tree. Actions that constitute an irreparable injury may include, but are not limited to: inflicting damage upon the root system by heavy machinery, changing the natural grade above the root system or around the trunk, inflicting damage that provides a pathway for infection or pest infestation, application of herbicides or other harmful chemical agents, infliction of trunk wounds, or improper removal of canopy or branches or that is generally inconsistent with ANSI (A300) standards for tree care (includes topping of trees).

International Society of Arboriculture (ISA): A non-profit society that promotes the professional practice of arboriculture and fosters awareness of the benefits of trees.

Light Emitting Diode (LED): Miniature lamps that emit pure red or amber light that do not vary in color over the life of the lamp. These lamps may be used in multiples to form strips of small lamps within a light fixture

Light Fixture: The structural mechanism which, or within which, the point source of light is attached.

Listed Species: Any plant or animal afforded protection pursuant to the Florida Administrative Code (FAC), including, but not limited to, species categorized as endangered or threatened; or any plant or animal categorized as endangered or threatened pursuant to the U.S. Endangered Species Act, Marine Mammal Protection Act (MMPA), or bald eagles protected pursuant to the Bald and Golden Eagle Protection Act or other bird species protected pursuant to the U.S. Migratory Bird Treaty Act.

Lot: Includes "plot", "tract" or "parcel" and is a parcel of land of at least significant size to meet minimum zoning requirements for use and / or is otherwise determined to be a legal lot of record.

Low-Pressure Sodium (LPS) Luminaire: An electric discharge lamp, containing sodium, neon and argon that when illuminated appears amber-yellow.

Low-Profile Luminaire: A light fixture set on a base which raises the source of the light no higher than 48 inches off the ground and designed in such a way that light is directed downward from a hooded light source.

Low Wattage: No greater than 25-watt incandescence.

Luminaire: A complete lighting system, including a lamp or lamps and a fixture.

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Marine Turtle: Any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or using the beach as nesting habitat, including the species: *Caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), and *Lepidochelys kempii* (Kemp's ridley). For purposes of this Chapter, marine turtle is synonymous with sea turtle.

Mooring Area: A specific area, on or over the waterway, assigned to a dock for the purpose of vessel storage. For the purpose of calculating the preempted area (see definition of *preempted area*), a mooring area shall be defined by the maximum length and width of the rectangular area on or over the waterway within which a vessel shall be stored, or the rectangular area adjacent to the entire terminal platform created by the placement of pilings, whichever is greater.

Motorized Vehicle: Any self-propelled, wheeled, tracked or belted conveyance.

Native Plant: An indigenous plant.

Naturalized Plant: A plant that is not native to an area but has colonized without being invasive.

Nest: An area where marine turtle eggs have been naturally deposited or subsequently relocated.

Nesting Season: The period from May 1 through October 31 of each year.

New Development: Includes new construction and remodeling of existing structures when such remodeling includes the alteration of exterior lighting or the repair or replacement of any glass or glazing.

Nighttime: The locally effective time period between sunset and sunrise.

Outdoor Lighting: The nighttime illumination of an outside area or object by any fixed luminaire. Vehicle lights and flashlights are not included in this definition.

Palm: Monocotyledous plant of the *Aracaceae* family, generally with one or more unbranched trunks, with fronds (leaves) emanating from meristem at the top of the trunk.

Person: Any individual, firm, association, government joint venture, partnership, estate, trust, syndicate, fiduciary, corporation and all other groups or combinations.

Point Source of Light: The actual light source such as the bulb, fluorescent tube, lamp, etc., from which light emanates.

Pole Lighting: A light fixture set on a base or pole which raises the source of the light higher than 48 inches off the ground.

Preempted Area: That part of submerged bottomlands occupied or covered by a docking facility or pier, including any associated mooring areas. This area is considered to be excluded from traditional public uses as a result of structure placement.

Problem Trees: Trees planted as part of a development project where the trees installed in accordance with the approved plan are, as determined by a Professional Landscape Architect or

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Certified Arborist: damaging infrastructure (utilities, sidewalks, parking area or structures), causing visibility issues for safe vehicular movement, or otherwise constituting a threat to the health, safety, and welfare of the general public.

Project Area: The difference between gross land area and any wetland area on a site proposed for development.

Prune, Pruning, Trim, or Trimming: The act of cutting or sawing to remove a dangerous hazard in a tree, or to maintain or improve the structure, form or health of a tree, in a manner generally consistent with the current *ANSI A300 Part 1 - Pruning*, as may be amended.

Recreational Vehicle: A vehicle, including a park trailer, which is: built on a single chassis; four hundred square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [Defined in F.S. § 320.01.]

Right-of-Way: The land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes. Specifically, land owned fee-simple or dedicated by easement to the State, County, or the City and/or municipality devoted to or required for use as a public street.

Root Plate (RP): The area of the root zone near the trunk comprised of the main buttress and anchor roots. These roots are under compression and tension pressures and serve as the primary support structures of a tree. Catastrophic tree failure can result from damage to the root plate. The root plate is generally represented by the radius of a concentric circle measured from the approximate center of the trunk equal to five times the DBH. This area can vary slightly by species. (See Exhibit 3.)

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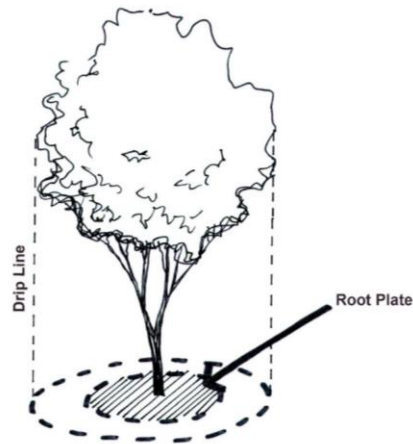


Exhibit 3 (Root Plate)

Example: A tree with a DBH of 20 inches would have a root plate radius of 100 inches or eight and three tenths feet: $20'' \times 5 = 100''/12 = 8.3$ feet (radius)

Shield: A nonreflective covering, canopy or other such device fitted over, around and extended below a light source preventing light from illuminating the beach.

Shielded: Fitted with a nonreflective opaque hood, or other covering or device, which prevents the light fixture and luminaire from producing direct or indirect illumination visible from the beach.

Stipulation/Condition of Approval: A statement or a condition issued with a tree permit or with an approved plan, with which compliance is necessary for continued validity of the tree permit or other approval.

Street: Includes any accessway such as a road, lane, highway, avenue, boulevard, alley, parkway, viaduct, circle, court, terrace, place or cul-de-sac, or other means of ingress or egress regardless of the descriptive term used, and also includes all of the land lying between the right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved, but shall not include those accessways such as easements and rights-of-way intended solely for limited utility purposes, such as for electric power lines, gas lines, telephone lines, drainage, water and wastewater collection systems and easements of ingress and egress.

Temporary Structure: Any manmade structure or object with a location or arrangement that is temporary or transient in nature.

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Tinted or Filmed Glass: Any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

Topping: Internodal removal of woody branches containing heartwood or cutting back to a lateral branch too small to assume the terminal role. (See Exhibit 4)

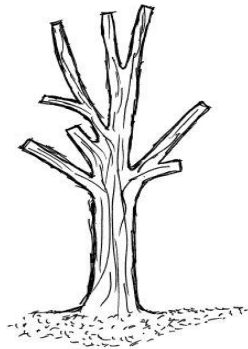


Exhibit 4 (Topping)

Tree: Any self-supporting woody perennial plant, usually having a main stem or trunk and many branches, and at maturity normally attaining an average height greater than ten feet and mature spread or crown greater than 15 feet.

Tree Cluster: A group of six or more protected trees with one continuous drip line.

Tree Location Survey: A survey that provides the following information: location of all trees, plotted by accurate techniques, common name of all trees, and Diameter at Breast Height (DBH), printed on the proposed site plan as described in this Chapter.

Tree Permit. The legal authorization for tree removal, irreparable injury to a tree, pruning of a Heritage or Venetian tree, tree Relocation, and /or the requirement for tree protection and /or tree plantings pursuant to the provisions of this Chapter.

Tree Protection Plan. A plan developed per the guidelines in this Chapter for any person conducting construction activities such as: excavation, filling, tunneling, trenching, compacting, demolition, utility work or other land disturbing activity in the Critical Root Zone (CRZ) or Tree Protection Zone (TPZ).

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Tree Protection Zone (TPZ). The area protected by an approved barrier or fence from all development activity. The area may consist of a single tree or tree clusters and other vegetation that has been agreed upon by the applicant and the Director or their designee and set aside for preservation. These areas have been evaluated and determined to be worthy of preservation because of their aesthetic or environmental value. The Critical Root Zone (CRZ) will be the primary definer of the TPZ; however, some trees may need more or less space to be protected. Depending on condition, size, age and species tolerance of construction, the TPZ may be adjusted as needed, with approval by the City Arborist, to ensure survival of the tree or tree cluster being preserved.

Tree Relocation. To transplant, reestablish or move a tree to another place within a site or off site.

Tree Removal. To cut down, poison, or in any other manner destroy, or cause to be destroyed, a Tree as defined in this Chapter.

True Red Neon. A tubular lamp containing neon gas that emits pure red light. True red neon does not include tubular fluorescent lamps, which may appear as various colors.

Venetian Tree. A tree of a native or non-native species that has significance, desirability, or utility to the community.

Vessel.

Any watercraft, power-driven or not, mobile or stationary, including but not limited to ships, boats, houseboats, and air boats, but excluding seaplanes and floating structures.

Vessel Draft.

The vertical distance measured from the highest point to which a waterbody rises on the vessel's exterior hull to the bottom portion of the keel or fixed drive unit, whichever is lower. Adjustable outboard or inboard/outboard engines shall not be included in the vessel draft calculation.

Visible From the Beach. Visible to a person standing on the beach.

4.2 Abbreviations

ANSI: American National Standards Institute.

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 (ASCE), Reston, VA.

FWC: Florida Fish and Wildlife Conservation Commission or successor agency.

FWS: United States Fish and Wildlife Service or successor agency.

ISA: International Society of Arboriculture is a non-profit society that promotes the professional practice of arboriculture and fosters awareness of the benefits of trees.

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