

<b>ARTICLE IV NATURAL RESOURCES</b>
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## **PART 4.00.00 GENERALLY**

The decision by the Owner as to whether and how to develop a Parcel of land, and the decision by St. Johns County to approve or disapprove proposed Development, may depend on the impact that the proposed Development will have on natural resources. This Article establishes standards and procedures by which these impacts are determined, and by which St. Johns County will approve or disapprove the Development in light of such impacts.

## **PART 4.01.00 NATURAL RESOURCES**

### **Sec. 4.01.01 Generally**

#### **A. Purpose**

The purpose of the Natural Resources Regulations is to set forth regulations regarding Land Alteration, the protection of soil and water, the protection of Trees and other vegetation, and the protection of Environmentally Sensitive Areas, in order to maintain the quality of life in St. Johns County and protect the health, safety, welfare and general well-being of the citizens of St. Johns County.

#### **B. Intent**

It is intended that the implementation of these regulations accomplish the following objectives:

1. Promote soil Conservation by minimizing and controlling alterations of the natural terrain, and thereby reduce sedimentation and air and surface water pollution resulting from soil erosion.
2. Maximize the retention of Trees, a valuable natural resource of the community.
3. Create an aesthetically pleasing and functional living environment to protect and enhance property values by conserving Trees and other vegetation.
4. Protect Environmentally Sensitive Areas from activities which would alter their ecological integrity, balance or character.
5. Ensure that the activities associated with Excavating and the resulting excavation itself does not adversely impact the quantity or quality of surface water or groundwater.
6. Ensure that the hauling of Excavated material does not adversely impact public roads or bridges or public health, safety or welfare.

7. Ensure compliance with Chapter 163, F.S., and the St. Johns County Comprehensive Plan.

**Sec. 4.01.02 Natural Resources Permitting**

A. When Required

Except as specifically exempted herein, it shall be unlawful for any Person, firm or corporation, either individually or through an agent, to cause Land Alteration within the unincorporated areas of St. Johns County without having obtained, a Development Permit or Development Order from the County Administrator, or to allow a condition which is the result of unauthorized Land Alteration activity to remain unremedied.

B. Effect of Permit

Issuance of a Development Permit by the County Administrator, or exemption from the requirement thereof, does not abrogate any legal requirement to comply with the regulations of any other governmental agency, local, state or federal, which may have jurisdiction over the proposed activity upon the land.

C. Exceptions to Requirement of Permit

No Permit under this Section is required for:

1. The Removal of dead or naturally fallen vegetation, except within an Environmentally Sensitive Area.
2. The limited Removal of Understory, (including non Protected Trees) vegetation necessary to obtain clear visibility between two (2) points for the purpose of performing field survey work, provided the Removal will not create a cleared swath wider than ten (10) feet.
3. The Removal of vegetation that is endangering public health, safety or welfare, and, after consultation with the County Administrator, it is determined by the County Administrator that there is no other remedy provided in this Code.
4. The Removal of Exempted Trees, as defined in this Code.
5. The Removal of vegetation planted on the premises of a plant nursery or tree farm and grown for the purpose of selling to the general public in the ordinary course of business.
6. The transplanting of Understory vegetation, (with any Protected Tree having been approved for transplanting), for use as landscaping material within the site or off the site, provided the Understory vegetation is not transplanted from an Environmentally Sensitive Area.
7. Land Alteration activities within approved Utility Rights-of-Way or Easements necessary to supply gas, water, sewer, telephone, cable television, or electrical service, provided these activities do not adversely impact an Environmentally Sensitive Area; however, any Land Alteration activity within a new electrical

transmission corridor greater than one hundred (100) feet in width does not qualify for this exemption. Pursuant to the definition of Land Alteration, activities undertaken to maintain existing Utility Rights-of-Way or Easements are not regulated by these Land Alteration regulations.

8. Land Alteration activities necessary to install a sprinkler system, septic tank, septic tank drain field, Utility line or swimming pool; or minor filling for topsoil or foundation fill; provided these activities do not involve Protected Tree Removal or are not undertaken within an Environmentally Sensitive Area.
  9. Land Alteration activities on residentially zoned land for Single Family or Two Family Dwelling Unit where the principal structure allowed pursuant to the zoning regulations has been previously permitted and constructed after Building Permit has been issued, except for the specific provisions of Sections 4.01.05, and 4.01.09.
  10. Land Alteration activities which are normal and necessary to conduct Bona Fide Agricultural and Silvicultural Operations, where those operations are on land in a zoning category, having the appropriate tax exemption, which allows Agricultural or Silvicultural Use and classified as Agricultural land under Section 193.461, F.S. Existing Bona Fide Agricultural and Silvicultural Operations may continue within Planned Unit Developments (PUDs) and Planned Rural Developments (PRDs) when allowed within the ordinance establishing the PUD or PRD district.
  11. Land Alteration activities required by an administrative or judicial order for the correction of landfill violations or closure of a landfill pursuant to Chapter 17 of the Florida Administrative Code.
  12. In the interest of public safety, health and general welfare during or following high winds, storms, hurricanes, tornadoes, floods, freezes, fires or other manmade or natural disasters, the County Administrator, upon finding that a waiver is necessary and defining geographically the area of the emergency, may suspend the regulations contained in Part 4.01.00 of this Code, in whole or in part, for a period of up to thirty (30) Days in the affected area.
  13. The Removal of Trees and vegetation for Fire Protection Breaks.
  14. Land Alteration activities necessary for the Construction and safe operation of Airport infrastructure intended for public use. This includes Protected Tree Removal and/or tree and vegetation mitigation associated with Airside Activities such as clear zones and runway safety and protection zones.
  15. The Removal of Trees exempted under Section 4.01.05.B of this Code.
- D. Certain Activities Exempt From the Provisions of Section 4.01.07, Significant Natural Communities Habitat
1. The terms of Section 4.01.07, pertaining to Significant Natural Communities Habitat, shall not apply to the following activities:

- a. Land Alteration activities necessary to make the Improvements shown on Site Development Plans, Subdivision Construction Plans, DRIs, PUDs, and PRDs approved prior to adoption of this Code.
  - b. Land Alteration activities on land subdivided pursuant to the Subdivision Regulations for a Subdivision that does not require Improvement facilities.
  - c. Land Alteration activities necessary to construct a Single Family or Two Family Dwelling Unit.
2. Development specifically vested against Land Development Regulations adopted to implement the Comprehensive Plan pursuant to a valid, unexpired Vested Rights Determination shall not be required to comply with Section 4.01.07, pertaining to Significant Natural Communities Habitat.
  3. Development approved in a Development of Regional Impact (DRI) Development Order adopted prior to the adoption of this Code is exempt from the provisions of Section 4.01.07, Significant Natural Communities Habitat. Further, any amendment to such DRI Development Order which does not increase the impact of authorized Development within Significant Natural Communities Habitat sought to be protected by the provisions of Section 4.01.07 shall also be exempt from such provisions. Any amendment to such DRI Development Order which adds additional land to the DRI Development Order and increases the impact of authorized Development within Significant Natural Communities Habitat sought to be protected by the provisions of Section 4.01.07 shall be addressed in the manner provided in that Section as to such new land. All other amendments to such DRI Development Order shall be reviewed in accordance with the criteria contained in Section 380.06(19), F.S.
  4. The terms of Section 4.01.07 pertaining to Significant Natural Communities Habitat shall not apply to those Land Alteration activities which are normal and necessary to conduct Bona Fide Agricultural and Silvicultural Operations.
  5. The terms of Section 4.01.07 pertaining to Significant Natural Communities Habitat shall not apply to those Land Alteration activities which directly relate to Airside Activities at Airports intended for public use. Airside Activities include but are not limited to runways, taxiways, taxi lanes, aircraft aprons, storage hangers, terminal Buildings, aircraft maintenance facilities, and other similar Airside Activities and Structures.
  6. The terms of Section 4.01.07 pertaining to Significant Natural Communities Habitat shall not apply to Development Projects less than ten (10) acres in size.
- E. The terms of Section 4.01.06 pertaining to Upland Buffers and setbacks shall not apply to platted or legal and documented Lots of Record existing prior to the initial effective date of this Code to be developed as one (1) Single Family or Two Family Dwelling, except that a minimum twenty-five (25) foot Upland Buffer shall be required unless:
1. A vesting determination is obtained.
  2. A Variance is approved pursuant to Article X of this Code.

3. Averaging of the Upland Buffer width, because of an unavoidable reduction, achieves a greater overall Upland Buffer width. When averaging is allowed the Upland Buffer shall in no case be less than ten (10) feet, except for those areas adjacent to unavoidable Wetland impacts such as road crossings.

The Upland Buffer shall be depicted on all Site Plans, Development plans, and other documents submitted to authorize the review for Development. Upland Buffers shall be maintained in their natural vegetated condition. Native vegetation removed or destroyed within the Upland Buffer in violation of this Code shall be restored. These areas shall be replanted with comparable native vegetative species as were removed or destroyed.

Furthermore, any residence and Accessory Uses regardless of the size of the footprint constructed or properly and effectively permitted on such a Lot on the initial effective date of this Code shall for that particular Structure be a deemed vested Use of the Lot in relation to the Upland Buffers and setbacks required by this Section, and such residence and Accessory Use shall not be a Non-Conforming Use under this Code to the extent it shall be replaceable within its existing footprint.

- F. The provisions of Section 4.01.06 shall not apply to Lots or portions of Lots where a bulkhead, retaining wall, revetment, the placement of rip-rap, or similar method is used to stabilize or embank a man-made canal existing prior to the enactment of this ordinance amendment and is Constructed pursuant to and in accordance with a validly issued and unexpired Permit from the Florida Department of Environmental Protection, St. Johns River Water Management District, or other agency having jurisdiction.
- G. The provisions of Section 4.01.06 shall not be interpreted to prohibit the minimum clearing of upland and Wetland vegetation necessary to construct a dock or other Improvement to provide access to navigable waters in accordance with a validly issued and unexpired Permit from the Florida Department of Environmental Protection, St. Johns River Water Management District, or other agency having jurisdiction.

#### **Sec. 4.01.03 Reserved**

#### **Sec. 4.01.04 Soil and Water**

Pursuant to the objectives and policies of the Coastal/Conservation Element of the St. Johns County Comprehensive Plan, the following measures shall be taken to protect and conserve Soils and Water within the County:

- A. Minimization of Impact
  1. Proposed Improvements shall be designed and located to minimize Land Alteration activities which would unnecessarily Remove the existing vegetation or alter the topography of the natural land surface.
  2. Adequate protection measures, such as hay bales, baffles, sodding and sandbagging, shall be provided as necessary to minimize erosion and downstream sedimentation caused by surface water runoff on exposed land surfaces.
- B. Surface Water Discharges

1. The turbidity of surface water discharged off-site or into any Wetland or Natural Water Body on-site shall not violate the water quality standard for turbidity as stated in Chapter 62-302, F.A.C. Turbid water in violation of this standard shall be treated prior to discharge off-site or into any Wetland or Natural Water Body on-site by using sediment control measures such as settling basins, berms, interceptor ditches, silt screens and other sediment traps. Whenever sediment control measures are necessary, they shall be installed prior to initial clearing and grading operations and maintained throughout the Land Alteration activity as a condition of granting the Permit.
2. Surface water runoff shall be discharged only within the drainage area that normally receives this runoff, unless otherwise approved by the St. Johns River Water Management District or other state or federal agency having jurisdiction.

C. Excavation

1. Applicants must ensure that any proposed Excavating activities meet the standards of the Florida Department of Environmental Protection and St. Johns River Water Management District.
2. Excavating activities shall not adversely impact water levels of either surface water or groundwater on surrounding property. The County shall ensure compliance with Florida Department of Environmental Protection and St. Johns River Water Management District permitting requirements for maintenance of water levels for surface water and groundwater.

D. Exposed Soils

Exposed soils shall be vegetated immediately upon completion of Land Alteration activities. Areas may be sodded, plugged, sprigged, seeded or covered with other vegetation as desired. In areas where erosion is likely, such as slopes greater than five to one (5:1) or areas of erosion prone soils, the County Administrator may determine that sodding is required. Where erosion is found to be occurring, sodding shall be required. In areas where grass seed is used, nurse grass seed (e.g. rye, millet) shall also be sown for immediate effect.

E. Placement of Fill

Fill shall not be placed in Wetlands, Natural Water Bodies, natural water courses, or related floodplains up to and including the 100-year floodplain, manmade/artificial channels, or any natural or manmade stormwater storage area, without prior approval of all applicable state and federal permitting agencies having jurisdiction.

F. Water Conservation

Water efficient landscaping and irrigation systems shall be used in order to maximize the conservation of water. Water efficient landscaping is Florida Friendly or Xeriscape landscaping that utilizes plants that are adaptable to local conditions, employs proper landscape planning of placing the right plant in the right place and utilizes plants which are drought tolerant. Water efficient irrigation uses irrigation systems and techniques that

minimize loss of water through proper design and equipment installation that prevents overspray, overwatering and evaporation.

#### **Sec. 4.01.05 Trees and Other Vegetation**

##### **A. Permits; Criteria for Issuance**

A Permit will be issued after proper application and approval by St. Johns County which clearly demonstrates compliance with this Code. This Permit authorizes the Land Clearing, Grubbing, or Removal of Protected Trees and Understory vegetation only as depicted on an accompanying Site Plan. Specimen and Historic Trees, as defined in Section 4.01.05.D shall not be impacted unless as allowed by the County Administrator or his designee upon showing of good cause, and where the Owner/Applicant proposes an alternative prepared by a Certified Arborist which conforms to the general intent and spirit of these regulations, and where the objectives of this Article have been substantially met.

##### **1. Criteria for Issuance of a Permit**

###### **a. Protected Tree Removal**

Protected Tree Removal shall only be allowed when at least one of the following criteria has been determined by County review with respect to each Protected Tree designated for Removal under the required Permit:

- (1) That the Protected Tree is located within the Building Footprint or within an area five (5) feet outside the Building Footprint of a given site, as identified on the approved Site Plan to minimize the loss of Protected Trees approved through the Development Review process.
- (2) That the Protected Tree is located within an existing or proposed Right-of-Way that has been approved under a Development Order issued by the County; or the Tree is located in an existing public or private Right-of-Way.
- (3) That the Protected Tree is located within an existing or proposed Easement, stormwater management tract or facility, within the minimum area reasonably necessary for the contemplated service or Use.
- (4) That the Protected Tree is located where its continued existence would unreasonably interfere with the physical Construction of the Improvements on a particular site from interference with the access to the site by Construction equipment, or with the operation of the equipment on the site in the immediate vicinity of the proposed Structure or Improvement; and in areas requiring Removal of muck and other unsuitable materials.
- (5) That the Protected Tree is located where it creates or will create a safety or health hazard with respect to an existing or proposed Structure or vehicle or pedestrian routes.

- (6) That the Protected Tree is located where it interferes with the installation, delivery, or maintenance of proposed or existing Utility services to the site.
- (7) That the Protected Tree is diseased, injured or in danger of falling.
- (8) That the Protected Tree is located on a portion of the site outside of the Building Footprint but within the interior area of the site to be used as a vehicular use area or vehicular and pedestrian ingress and egress.
- (9) That the Protected Tree is located within a portion of the site approved for clearing under Section 4.01.05.A.1.b. and Section 4.01.05.F.1.b.

b. Land Clearing

Land Clearing shall not be allowed unless the County Administrator finds that all of the following criteria have been satisfied:

- (1) The Land Clearing is necessary in order to make site Improvements already authorized by an approved Site Plan, Subdivision approval, or Development Permit, and that the area to be cleared is the minimum necessary for such work or (in the event the aforementioned approvals are not required by law for the intended Use of the property) that the proposed clearing is the minimum necessary for the proposed Use of Improvement and is in conformance with Section 4.01.05.A.1.a. "Protected Tree Removal."
- (2) The Applicant shall provide and implement a reasonable written plan to control erosion which may be expected to occur as a result of the proposed Land Clearing. The erosion control plan must meet the requirements of the Roadway, Drainage, & Utilities Standards in Part 6.04.00 and obtain review approval. The plan shall incorporate some or all of the following means as determined by the Applicant: temporary seeding and mulching, sodding, diversion berms, interceptor ditches, sediment barriers, sediment basins, and related appurtenances or devices.
- (3) All provisions of a final submitted erosion control plan shall constitute a condition of Permit issued and a violation of any of the conditions or provisions of the plan shall be considered a violation of this Code, and subject to all enforcement provisions.
- (4) The Applicant has or is complying with all Tree protection provisions contained elsewhere in this Code.

2. Posting of Permits



The Permit shall be posted in a conspicuous and visible place at the front of the property. The Permit shall be protected from the weather and be located in such location by the Applicant promptly after issuance, during, and for a period not less than one month after the Protected Tree Removal and/or Land Clearing or until a Building Permit is issued, whichever occurs first. It is the responsibility of the Permit Applicant to maintain the Permit, or to promptly obtain a replacement copy from the County if necessary.

3. Permits required by this Code may be obtained after-the-fact for Land Clearing and/or Tree Removal activities upon determination by the County Administrator that such activities were performed in accordance with Permit issuance criteria specified in this Section. Such fee for an after-the-fact Permit shall be as established by Resolution of the Board of County Commissioners in a separate fee schedule.

#### B. General Prohibitions

It shall be prohibited and subject to penalties contained herein for any Person directly or indirectly to perform any of the following, unless exempted herein or by an approved Variance.

1. To perform Protected Tree Removal, damage any Protected Tree, or Land Clearing without a valid County Permit.
2. To perform any Construction activity, including Land Clearing and Protected Tree Removal, without first erecting Tree Protection Barricades to at least include the Protected or preserved Tree's Protected Area as defined in this Code.
3. To change earth grade within the required Protected Area of any preserved Protected Tree unless approved by the County Administrator.
4. To modify drainage which causes water to be trapped within a required Protected Area of any preserved Protected Tree.
5. To perform Land Clearing or Protected Tree Removal on the individual platted Lots within a new multi-Lot residential Project, unless Construction Plans are approved for clearing in these areas as defined in Section 4.01.05.F.1.b. On residential Projects requiring clearing for New Construction, Protected Tree Removal may only occur for the road Rights-of-Way, drainage areas and Utility Easements as shown and approved on the Project's Construction Plans.

#### C. Exemptions

Notwithstanding anything to the contrary in this Code, the following activities shall be lawful without application for and issuance of a Permit. None of these exemptions shall apply to any Dune vegetation seaward of the Coastal Construction Control Line or to a Specimen Tree, or Historic Tree, unless otherwise stated below. The burden of proving entitlement to any particular exemption shall lie with the Person claiming the exemption. Exemptions are as follows:

1. The Removal, trimming, pruning or alteration of any unprotected Tree or other vegetation when necessary for:
  - a. The clearing of a path not to exceed ten (10) feet in width to provide physical access or view necessary to conduct a survey or site examination for the preparation of Subdivision plats, Site Plans. The path may be widened to avoid a Protected Tree. However, Land Clearing for surveys shall not authorize the Removal of Protected, Specimen or Historic Trees.
  - b. The clearing of a path not to exceed ten (10) feet in width to provide vehicular access necessary to conduct soil percolation and/or soil bore tests on a property.
  - c. Creation of a Fire Protection Break
2. Routine landscape maintenance such as trimming or pruning of vegetation which is not intended or reasonably likely to result in damage or the eventual death of any Protected Tree; and mowing of yards or lawns, or any other landscaping or gardening activity, which is commonly recognized as routine non-commercial gardening or routine maintenance or replacement. This exemption shall be construed to allow routine maintenance of commonly grown horticultural vegetation growing on Dunes seaward of the Coastal Construction Control Line, provided the Person owning such property, or his/her agent, first provides sufficient documentation evidencing express permission for such activity from the Bureau of Beaches and Coastal Systems of the Florida Department of Environmental Protection of the State of Florida.
3. The Removal, trimming, pruning or alteration of any Protected Tree or vegetation in an existing Utility or drainage Easement or Right-of-Way provided such work is done by or under the control of the operating Utility company, or governmental agency, or property Owner's association or entity responsible for maintaining drainage Improvements and in the case of Utility Easements, said entity has received all necessary licenses or Permits to provide Utility service within the Easement. To qualify as an existing Easement or Right-of-Way, it shall be legally recorded and platted or have drainage or Utility Structures in place prior to the effective date of this Code.
4. The Removal, pruning, trimming or alteration of any Protected Tree or vegetation for the purpose of maintaining an existing access to a property.
5. The movement or storage of any vehicle within or across a Protected Area for the purpose of using or maintaining an access to property that existed prior to the adoption of this Code.
6. Any activity conducted on land operating as a Bona Fide Agricultural Use or Silvicultural Use such as a commercial nursery, farm, wetland enhancement, wetland creation areas, ranch or similar operations. This exemption shall include the purposeful Removal of a Protected Tree or Trees excluding Historic and Specimen Trees. When Land Clearing or Protected Tree Removal has been performed under this exemption based upon the Use of the property for an Agricultural Use, no County Development approvals shall be given for any non-

Agricultural Use or Improvement on the same site within four (4) years of the completion of such Land Clearing or Protected Tree Removal. However, the four (4) year rule shall not apply if the land to be developed has maintained at least eighty (80) D.B.H inches per acre. Existing Bona Fide Agricultural and Silvicultural Operations may continue, within Planned Unit Developments (PUDs) and Planned Rural Developments (PRDs) when allowed with the ordinance establishing the PUD or PRD district.

7. Any Tree which constitutes an immediate peril to life, property, or other Trees of equal or greater Tree inches, may be Removed without an advanced permit, provided that it is followed by a written notification to the County Administrator within three (3) weeks with clear and complete photographic evidence for issuance of retroactive Permit for Removal of the Protected Tree.
8. The mowing or underbrushing of a land area that does not disturb the soil profile when conducted without disturbance, damage or Removal of Protected Trees.
9. The Removal, trimming, pruning or alteration of any Protected Tree or vegetation for the purpose of maintaining the FAA FAR Part 77 surface around public use Airports required for the safe operation of aircraft on and around the Airport.
10. The Removal, trimming, pruning or alteration of Protected Trees or vegetation required for Airside Construction at public use Airports.
11. Land Clearing or Protected Tree Removal for existing single family residential home sites situated on a Lot of Record one (1.0) acre or less in size; except that Historic and Specimen Trees shall not be removed without obtaining approval from the County Administrator unless diseased or a substantial threat to the existing house. Furthermore, the same exemption shall apply to land within one hundred (100) feet of the perimeter of an existing single family residential home situated on a Lot of Record larger than one (1.0) acre. Newly constructed single family residential homes shall become exempt upon the issuance of a Certificate of Occupancy.

D. Historic and Specimen Tree Designation

1. Designation as a Historic Tree may commence in any one of the following ways:
  - a. An Applicant may request such designation as part of any master plan, preliminary Subdivision plat, or preliminary Site Plan application. To do so, the Applicant shall submit evidence to the County Administrator that the Historic designation is proper.
  - b. A property Owner may request such designation at any time. In making such request, the property Owner shall submit the request and an expert evaluation to the County Administrator.
  - c. The County Administrator may request such designation as part of an overall Historic Tree protection planning program for the County or portion thereof.

2. The County Administrator shall present, from to time, all Tree designation requests with documentation for Trees meeting the criteria of Historic Trees to the Board of County Commissioners of St. Johns County for its consideration and designation.

3. Specimen Tree Designation

The County Administrator, property Owner, or an Applicant may request that a Native Tree become a Specimen Tree when professional field measurements document species, height, crown spread, D.B.H. and overall condition. The results in total points awarded a Tree designee must be equal to or greater than seventy percent (70%) of the current Florida State Champion Tree for that species as published in “Big Trees the Florida Register” for all species except that the total points awarded must equal or exceed fifty percent (50%) for Laurel Oak, Live Oak, Southern Magnolia and Southern Red Cedar. The County Administrator shall review and approve all Specimen Tree designation requests.

4. On sites where grade cuts are necessary under Historic or Specimen Trees proper root pruning shall be required. Within the Tree’s Protected Area, all excavation shall be by hand, and roots two (2) inches and larger shall be evenly cut.

5. When underground Utilities are necessary under Historic or Specimen Trees, tunneling shall be required. The underground Utility tunnel shall begin at the Tree’s Protected Area and be a minimum of four (4) feet deep. No open vertical trenches shall be allowed within a Historic or Specimen Tree’s Protected Area.

6. A Tree Protection Barricade shall be installed at the Protected Area of each Specimen Tree and shall be inspected by the County prior to the initiation of any Construction activity on site and shall remain in place throughout Construction.

SPECIMEN TREE POINT CALCULATION

Total points shall be determined by using the following formula:

(Average crown spread in feet) divided by 4 + (Circumference in inches) + (Height in feet) = Total Points

Example:	Crown spread maximum	68 feet
	Crown spread minimum	<u>52 feet</u>
		120 Total / 2 = 60 feet Average

60 feet / 4 = (15) + Circumference (135 in.) + Height (41 ft.) = (191) Total Points

E. Value Assigned to Trees, Notes, Tree Bank Fund, and Remedy for Protected Tree Removal without a Permit.

1. Protected Trees, as defined in Article XII, are assigned values based on Caliper size or DBH measurement.

*Note 1.* Bonus: Tree inches shall be assigned for any Native Tree(s) preserved within a Parking Area, or between a road right of way and the Parking Area or Building Footprint,

such that the distance separating these areas is not more than one hundred (100) feet. These inches may be applied against the deficit of Tree inches from Removal of other Protected Trees. These Trees become Protected Trees, and shall be clearly identified on plans.

*Note 2.* Bonus: A stand of ten (10) or more Native Protected Trees in a cluster with one (1) continuous drip line shall also earn double Tree inch value. Trees, which are Protected size or not Protected size within this area shall be included, as long as they form a continuous drip line. Tree inches from these Trees shall be applied against the deficit of Tree inches from Removal of other Protected Trees. All of these clustered Trees become Protected and shall be clearly identified on Site Plans submitted.

*Note 3.* Planted Multi-Trunk Trees shall earn total Tree inches based upon the size of each individual trunk such that the largest three trunks of the Multi-Trunked Tree shall be added together to obtain the Tree's total Caliper size.

*Note 4.* Bonus: Transplanted from on site Native non-Exempt Trees up to twelve (12) inch DBH: These Trees shall receive Tree inch value, and these Tree inches may be applied against the deficit of Tree inches from Removal of other Protected Trees. All Trees of unprotected size then become Protected Trees and shall be labeled as such on all appropriate Site Plan sheets.

*Note 5.* All planted Palms shall receive three (3) Tree inches of value for those with six (6) feet to fifteen (15) feet of clear trunk and six (6) Tree inches of value for those greater than fifteen (15) feet clear trunk. Those surveyed at Protected Tree minimum size shall all be assigned six (6) Tree inches of value.

*Note 6.* Trees planted to receive Tree inch value shall be selected so:

- (a) At a minimum, seventy percent (70%) of the replacement Trees shall be Canopy Trees, including Parking Areas, unless Canopy Trees are not suitable, as reasonably determined by the County Administrator in the area to be planted.
- (b) To provide diversity, no one species shall constitute more than fifty percent (50%) of the total replacement planting.
- (c) All replacement Trees shall be a minimum two (2) Tree inch Caliper measured no closer than six (6) inches from the ground.
- (d) Non-Canopy Trees shall not be planted closer than ten (10) feet from other Trees and Canopy Trees shall not be planted closer than twenty (20) feet to thirty (30) feet from other Trees unless approved by the County Administrator.
- (e) All landscape plans shall include all lighting structures, electrical overhead lines, and other vertical objects so as not to interfere with plantings.

*Note 7.* As allowed by conditions set forth by 4.01.05.F, Tree inventories on a numbered overlay map may be conducted by a registered land surveyor, registered landscape

architect, registered Professional Engineer, Certified Arborist, or under the supervision and certification of the above listed professionals.

*Note 8.* Tree species selected for planting are subject to County approval based upon site conditions including but not limited to: soil characteristics, planting area size, visibility concerns and Utility conflicts.

*Note 9.* Utility Easement areas shall be deducted from the acreage calculation when determining the required Tree inches per acre. No Trees shall be planted within these easements as they are to be kept clear for Utility installations and Improvements.

## 2. St. Johns County Tree Bank Fund

- a. A dedicated financial fund shall be created under authority of this Code to receive payments as detailed elsewhere in this Article, when Protected Trees are not replaced after Removal. The Tree Bank shall be a separate line item set up and shown on County financial records in which all receipts are detailed. Expenditures of Tree Bank funds occur after approval by the Board of County Commissioners in advance of the expenditure for the following projects:
  - (1) County Construction and capital improvement limited to cost of Trees, landscaping equipment and associated installation and irrigation equipment incidental to the installed landscaping.
  - (2) Beautification limited to the cost of Trees, landscaping equipment and associated installation and irrigation equipment incidental to the beautification project. Where Tree Bank funds are used to plant trees in County Road medians or shoulders, such funds may also be used to fund design by a Registered Landscape Architect to assure the safety, viability and appropriateness of such plantings.
  - (3) Conservation or natural preserve area protection and enhancement limited to cost of Trees, landscaping equipment, access and trails, and associated installation and irrigation equipment incidental to the enhancement project.
  - (4) To mitigate negative environmental effects of tree removal and the loss of treed acreage and to provide the ability to mitigate wildlife displacement as reasonably determined by the County Administrator using acceptable environmental evaluation practices and programs or preservation land assessment and acquisition.
  - (5) Multi-family or Single Family Lots for housing qualifying under State and Federal affordable/workforce housing programs in order to meet applicable Tree inch Requirements.

An annual separate accounting statement shall be presented to the Board of County Commissioners by the County Administrator detailing yearly activity of the Tree Bank Fund.

- b. The Tree Bank Funds may not be used to fund ongoing maintenance costs following the completion of a project.

3. Enforcement for Protected Tree Removal without a permit

Protected tree inches removed due to unauthorized clearing shall require mitigating the Tree inches lost through replanting or a combination of replanting a portion of the Tree inches lost and providing a Tree Bank Fund payment for those inches not replanted. Additionally, the payment of a fine as set forth in this Section shall apply and be paid to the Tree Bank Fund. All mitigation shall be accomplished after the notification of the violation within the six (6) month suspension period. All fines shall be rendered no more than thirty (30) days after the notification of violation.

- a. Removed Protected Trees are to be replaced with like Trees of the same size, species, and location. When replacement of Protected Trees is not practical as reasonably determined by the County Administrator, an equal number of inches of the same species shall be applied to replace the Trees. The plantings shall meet the general planting requirements as provided in this Article, and shall be planted on the same site.
- b. If site conditions prevent the replanting of all the Tree inches lost, as determined by the County Administrator, payment into the St. Johns County Tree Bank Fund for the portion of the Tree inches not replanted is required. The rate of payment shall be at the replacement cost of the particular species, at a two (2) inch Tree size, as determined by a replacement cost estimate.
- c. Fines assessed for unauthorized Protected Tree removal shall be:
  - \$200 for each Tree 8 inches to less than 12 inches
  - \$400 for each Tree 12 inches to less than 20 inches
  - \$800 for each Tree 20 inches to less than 30 inches
  - \$1,000 for each Tree 30 inches or greater
- d. Fines assessed for unauthorized removal of Protected Sand live oak or Southern Red Cedar shall be:
  - \$200 for each Tree 2 inches to less than 4 inches
  - \$400 for each Tree 4 inches to less than 8 inches
  - \$800 for each Tree 8 inches to less than 12 inches
  - \$1,000 for each Tree 12 inches or greater
- e. The fine assessed for unauthorized removal of a Specimen Tree shall be \$5,000 for each Specimen Tree removed.
- f. If a site is cleared without authorization and Trees are removed such that the County Administrator is unable to assess the number and size of Protected Trees removed, such violation shall be subject to a fine of \$30,000 per acre, or fraction thereof, of land cleared.

- g. Issuance of all Development permits with respect to the subject property shall be suspended for a period of six (6) months during which time all mitigation shall be satisfied.
- h. These provisions to achieve compliance do not preclude the use of Code Enforcement activities as provided by Article 10.05.00 of this Code or any other enforcement activities permitted by law.

F. Permit Application Procedures

- 1. Application for any Permit required by Section 4.01.05 shall be in writing on a form provided by the County Administrator. Applicants shall provide all information necessary to evaluate the application to include, but is not limited to, proof of Applicant's legal or equitable interest in the proposed site plus a scaled Site Plan giving all details on Lot configuration and dimensions plus all existing and proposed constructed Improvements of any kind. In addition, more specifics on existing Protected Trees and vegetative cover for different types of Projects shall be provided by the Applicants as detailed below. Permits shall be issued showing compliance with the procedures listed below, and may be issued before complete approval of Construction Plans.

a. For Commercial Building Sites and Subdivisions

- (1) A Site Plan identifying all Protected Trees shall be provided by the Applicant. The Site Plan shall depict all the proposed Improvements and any existing Protected Trees by either Tree Location or Inventory of Trees as set forth below.
  - (a) Protected Tree inches that are located within the limits of clearing where: less than six inches (6) of grade change is required, or Trees that are to be preserved for Tree inch value which offsets removed Tree inches, shall be Tree Located on the Site Plan.
  - (b) Protected Tree inches that are located within the limits of clearing where: greater than six (6) inches of grade change is required, an Inventory of Trees shall be provided on the Site Plan.
  - (c) Trees preserved for inch value in areas that are outside the limits of clearing may be shown by an Inventory of Trees method for value.
- (2) The Site Plan shall include a tally of Tree inches lost by Removal of Protected Trees.
- (3) All Trees of Specimen size as defined by 4.01.05.D or Historic Trees shall be identified on the Site Plan by Tree Location method.
- (4) A tally of Tree inches of all Protected Trees to be Removed under the final approved Site Plan shall be submitted with landscape plans



illustrating the maximum Tree inches to be reasonable earned by replacement planted Trees. A twenty-five dollar (\$25) per lost Tree inch deficiency charge for any unavoidable loss shall be paid into the St. Johns County (SJC) Tree Bank Fund or replacement with new plantings equal to the number of Tree inches lost before final Development Review approval of the Development site. In the event that the Development site is not adequately Treed, a minimum of eighty (80) Tree inches per acre (or prorated portion) shall exist after completion of Construction.

Construction of commercial projects shall be exempt from payment in the Tree Bank Fund for lost Tree inches provided:

- (a) The project meets or exceeds the minimum eighty (80) Tree inches per acre, and
- (b) All efforts have been reasonable made to replant within the Development Area, and
- (c) Any increase in paving above minimum standards must be approved by the Environmental Division.

Construction of Regional Parks shall be exempt from payment into the Tree Bank Fund for lost tree inches upon demonstration that all reasonable efforts have been made to replant within the Development Area. This exemption does not alleviate the requirement to meet the minimum eighty (80) Tree inches per acre requirement as noted above.

b. For Development of Lot areas within Subdivisions

- (1) No Land Alteration is allowed in Lot areas which require less than six (6) inches of grade change.
- (2) All Lot areas that require more than six (6) inches of grade change shall include an Inventory of Trees of all Protected Trees within said area, and they shall be considered lost.
- (3) Mitigation for all Protected Trees lost shall be by one of the following methods:
  - (a) The total tree inches lost from the Lots are reduced by the calculated tree inches to be planted on the Lots, as calculated on the Neighborhood Site Plan. The balance of removed tree inches are to be paid into the Tree Bank fund at twenty-five dollar (\$25) per lost Tree inch, at the time of Construction Plan approval.

EXAMPLE: Total Tree inches Removed minus NSP Tree inches equals balance of Tree inches.

- (b) The total Tree inches shall be replaced by new plantings outside the future Building Restriction Lines of each Lot.
  - (4) Building Lot areas developed under this provision shall be grassed within thirty (30) Days after completion of the filling and grading of such Building Lots.
  - (5) All Trees of Specimen size as defined by 4.01.05.D or Historic trees shall be identified on the Site Plan by Tree Location method.
  - (6) A minimum of forty (40) Tree inches per acre shall exist after completion of Construction.
- c. Development of Individual Residential Lots
  - (1) No Land Clearing or Protected Tree Removal shall be allowed before receiving an approved Site Plan. Applications for such approval shall be submitted complete with a scaled detailed Site Plan showing all Lot characteristics and dimensions, all existing and proposed Construction Improvements, all fill including septic mounds, onsite sanitary disposal tanks and any wells. On any portion of a Lot with less than six (6) inches of grade change, said Site Plans shall also show in their proper approximate location all existing Protected Trees which shall thereafter be protected and saved during Building Construction to minimize future expense in planting Trees necessary to meet the forty (40) Tree inches per acre requirement.
  - (2) For purposes of this Code, all Protected Trees in any area with six (6) inches or more grade change shall be considered Removed and no Tree inches shall be given for such Trees. At Final Inspection County personnel shall verify forty (40) Tree inches per acre exist, either preserved or planted in the Lot area.
- d. For Right of Way or Utility Construction projects (no other proposed Construction)
  - (1) The Limits of Construction shall only include the required Right of Way, drainage ways, impoundments, and Easement areas.
  - (2) All Trees of Specimen size as defined by 4.01.05.D or Historic Trees shall be identified on the Site Plan by Tree Location method.
  - (3) An Inventory of Trees shall be provided of all Protected Trees, and the total Protected Tree inches are to be replaced by payment into the Tree Bank fund at a rate of twenty-five dollars (\$25) per inch, or at the Developers option, replacement Tree inches planted within the site area.
  - (4) A minimum of forty (40) Tree inches per acre shall exist after completion of Construction.

Construction for Arterial and Collector roadways shall be exempt from payment into the Tree Bank Fund for lost tree inches upon demonstration that all reasonable efforts have been made to replant within the Development area. This exemption does not alleviate the requirement to meet the minimum forty (40) Tree inch requirement as noted above.

2. For Erosion Control

If Land Clearing is intended, an erosion control plan per Section 4.01.05.C.1.b. shall be submitted at the time of the Permit application. The Permit application shall be submitted and processed concurrently with Site Plan review or Subdivision review. The Site Plan or Subdivision plan shall be prepared in a manner to allow ready comparison with the Tree Survey in order to assess whether the cited criteria have been met. All items shown shall be properly dimensioned, scaled and referenced to the property lines, and setback or yard requirements provided.

3. Permit Expiration

Any Permit issued shall remain valid for a period consistent with the Development Review Committee Site Plan approval. The County Administrator may require reapplication and full review in those cases where site conditions have changed substantially from the date of issuance of the initial Permit.

G. Determination of Protected Area

The County Administrator shall review each application, and may inspect each site, for the purpose of making a determination as to the appropriate measures to protect the Protected Area on a given site. The Protected Area shall be the Drip Line of a Protected Tree. A Tree Protection Barricade shall be installed at the Drip Line, unless an alternative is approved by the County Administrator. No Land Clearing or Tree Removal shall begin until after the Protection Barricades are installed and the Barricades shall remain in place until after completion of Construction. Any preserved Tree damaged during Construction will be considered Removed and will have to be replaced. Damage may include, but is not limited to, mechanical damage resulting in the removal of bark, limbs, leaders, and sign attachment, or root damage resulting from grade changes, Utility installation, excessive scraping, removal of Understory, and compaction from heavy machinery.

**Sec. 4.01.06 Environmentally Sensitive Areas - Wetlands, Estuaries, and Natural Water Bodies**

A. Activities Prohibited, Allowed

1. Land Alteration activity which destroys, reduces, impairs or otherwise adversely impacts a Wetland or Natural Water Body shall be prohibited unless specifically authorized and permitted by all applicable state and federal permitting agencies having jurisdiction.
2. Notwithstanding the provisions of Section 4.01.06.B.1. and 2., a minimum natural vegetative Upland Buffer of fifty (50) feet shall be required and maintained between

developed areas and the St. Johns River, Matanzas River, Guana River, or Tolomato River, regardless of any other regulatory agency requirement of a lesser distance. This requirement shall also apply to the portions of tributaries, streams, or other water bodies connected to the St. Johns River, Matanzas River, Guana River, or Tolomato River. Such portions of these tributaries, streams, or other water bodies shall be established by the mean high water line of the applicable tributary, stream or other water body and such mean high water line shall be depicted on all Site Plans, Development plans, and other documents submitted to authorize the review for Development. The fifty (50) foot Upland Buffer shall be measured from the St. Johns River Water Management District or Florida Department of Environmental Protection Wetland jurisdictional line. It is the objective of this requirement that a minimum fifty (50) foot Upland Buffer be established in all areas except for those circumstances where an averaging of the buffer width, because of an unavoidable buffer reduction, achieves a greater overall Upland Buffer width. In no instance shall the Upland Buffer be less than twenty-five (25) feet, except for those areas adjacent to unavoidable wetland impacts. In all cases, the applicable buffer shall be depicted on all Site Plans, Development plans, and other documents submitted to authorize the review for Development. Upland Buffers shall be maintained in their natural vegetated condition. Native vegetation removed or destroyed within the Upland Buffer in violation of this Code shall be restored. These areas shall be replanted with comparable native vegetative species as were removed or destroyed.

3. Any Wetlands, Estuaries, and Natural Water Bodies required to be protected from Development under an applicable Permit shall be designated Conservation Area on all Development Plans and plats. Any allowable Uses approved in the Permit within the Conservation Area shall be noted on such Development Plans and plats.

#### B. Buffers and Setbacks

In accordance with policies of the Coastal/Conservation Element of the Comprehensive Plan, for any new Development after the adoption of this Code, the following Upland Buffers and setbacks are established.

1. Except as provided in Section 4.01.06.A.2., a minimum twenty-five (25) foot natural vegetative Upland Buffer shall be required and maintained between developed areas and Contiguous Wetlands to protect the water quality of the Wetlands. The twenty-five (25) feet shall be measured from the St. Johns River Water Management District or Florida Department of Environmental Protection Wetland jurisdictional line. It is the objective of this requirement that a minimum twenty-five (25) foot Upland Buffer be established in all areas except for those circumstances where an averaging of the buffer width, because of an unavoidable buffer reduction, achieves a greater overall Upland Buffer width. In no instance shall the Upland Buffer be less than ten (10) feet, except for those areas adjacent to unavoidable Wetland impacts such as road crossings. In all cases, the applicable Buffer shall be depicted on all Site Plans, Development plans, and other documents submitted to authorize the review for Development. Upland Buffers shall be maintained in their natural vegetated condition. Native vegetation removed or destroyed within the Upland Buffer in violation of this Code shall be restored. These areas shall be replanted with comparable native vegetative species as were removed or destroyed.

2. In addition to the requirement of Section 4.01.06.B.1, a twenty-five (25) foot setback shall be required for all Parcels of land adjacent to Contiguous Wetlands, except where a 50 foot Buffer is required in Section 4.01.06.A.2. Reduced (no minimum) setbacks may be allowed within the portion of the Parcel to be developed except for residential, as approved by the County Administrator using acceptable environmental evaluation practices. Provided there is no encroachment into the required Upland Buffer, all Accessory Uses, as provided in Section 2.02.04 shall be permitted within this setback, except Buildings which have a permanent foundation. Such Accessory Uses shall be subject to the requirements of this Code. Further, provided there is no encroachment into the Upland Buffer, this setback requirement shall not apply to: the installation of a sprinkler system, Utility line, landscaping, fencing, and gazebos; the Construction of a road essential for access and the Construction of a stormwater retention or detention basin or other stormwater related Structure; the Construction of a recreational trail, golf cart path, or similar Structure; and any necessary grade finishing to provide a gradual slope between the setback line and the Upland Buffer.
3. The twenty-five (25) foot setback requirement from the Upland Buffer as required in Section 4.01.06.B.2 shall not be required for residential lots adjacent to Contiguous Wetlands when the required Upland Buffer is not included within the platted lots. In this instance, residential lots are subject only to the applicable zoning district minimum setbacks.

C. The following criteria shall be applied when reviewing the Upland Buffer:

1. As established in Section 4.01.02.E or Section 4.01.06, the applicable Upland Buffer shall be required for all Contiguous Wetlands. In instances where Upland Buffer averaging is utilized the applicable minimum Upland Buffer shall be maintained in conjunction with achieving a greater overall Upland Buffer width.
2. All required valid and unexpired permits from state and federal regulating agencies shall be provided to the County prior to commencement of Construction.
3. In an area where the Upland Buffer is or will be comprised of fill material, or the bank of a stormwater system, with permits by state and federal regulating agencies, the area shall be reestablished as a natural Upland Buffer by the replanting of plants that are natural and native to the original ecological community. Turf grasses and exotic or non-native plants are expressly prohibited. Upland Buffer planting plans shall be provided with the Development application.
4. A request for a Variance to Section 4.01.02.E or Section 4.01.06 of the Land Development Code for the purposes of unavoidable wetland impacts may be administratively approved by the County Administrator in conjunction with an application for Development review upon finding that all of the following criteria are met:
  - a. All required valid and unexpired permits from state and federal regulating agencies have been issued and are provided with the Development application or will be made a contingency for variance approval.

- b. The Variance request is limited to:
  - (1) A road crossing.
  - (2) Public infrastructure and Utility crossings or rights-of-way that are related to transmission or conveyance of a service.
  - (3) A driveway on a Legal Lot of Record to a single-family residence.
  - (4) A wetland impact as permitted by state and/or federal regulating agencies.
  - (5) Necessity similar to circumstances above, where absent a variance, there could be no reasonable use of the property.
- c. A Variance shall not be approved for self-created hardships such as, but not limited to:
  - (1) Placing a road crossing, Utility crossing, rights-of-way, driveways, or other features in wetlands instead of uplands for the sole purpose of providing additional upland area for Development.

D. Development

- 1. All new Development impacting these areas shall be designed and constructed to federal, state and County specifications to minimize stormwater and pollutant discharge.
- 2. All new Development impacting these areas shall meet the standards and requirements of Part 6.04.00, Roadway, Drainage & Utility Standards and Part 3.03.00, Flood Damage Control Regulations.
- 3. Pursuant to policies of the Coastal/Conservation Element of the Comprehensive Plan, users of septic tank systems shall be required to connect to central sewer systems once service becomes available in that area, as required by applicable Utility ordinances and this Code.
- 4. The County shall protect Estuaries, Wetlands, and Natural Water Bodies by ensuring compliance with Florida Department of Environmental Protection standards for Wastewater discharge into Class II and III waters.

E. Silviculture activities within these areas shall follow practices outlined in the following:

- 1. "Silviculture Best Management Practices 1993", as updated, Florida Department of Agriculture and Consumer Services, Division of Forestry.
- 2. Comply with the requirements of Chapters 373 and 403, F.S.
- 3. Comply with the St. Johns River Water Management District Silviculture Rule, Chapter 40C-400.500, F.A.C.

**Sec. 4.01.07 Environmentally Sensitive Areas - Significant Natural Communities Habitat; General Provisions**

- A. Section 4.01.07 provides standards and guidelines for the protection of Significant Natural Communities Habitat.
- B. Onsite Conservation shall be considered the most desirable alternative to protect Significant Natural Communities Habitat and plant and wildlife species located within these areas. However, there are provisions to provide Offsite Conservation as an alternative.
- C. Significant Natural Communities Habitat shall be identified, and areas to be established as Preservation shall be designated Conservation Area on all Development Plans and plats equal to or greater than ten (10) acres in size.
- D. Land Alteration activity which destroys, reduces, impairs or otherwise adversely impacts a Preservation Area shall be prohibited unless specifically approved by the Board of County Commissioners, or exempted in Section 4.01.02.D.
- E. Development Projects equal to or greater than ten (10) acres in size containing Significant Natural Communities Habitat shall provide protection of the Significant Natural Communities Habitat as provided below:
  - 1. Ten percent (10%) of the Significant Natural Communities Habitat contained within the Development Project shall be established as Preservation. Onsite Conservation of Listed Species Essential Habitat may also be required subject to the requirements of Section 4.01.08. However, in no instance shall the total amount of upland required to be established as Preservation for Significant Natural Communities Habitat or designated for Onsite Conservation for Listed Species Essential Habitat exceed ten percent (10%) of the total upland area of the Development Project, unless required by a federal or state regulatory agency with jurisdiction.
  - 2. Where establishment of Preservation areas within a Development Project, as required above, results in small, fragmented areas with limited habitat value, as determined by the County Administrator in coordination with applicable state or federal agencies, Offsite Conservation shall be allowed.
- F. Silviculture activities within these areas shall follow practices outlined in the following:
  - 1. "Silviculture Best Management Practices, 1993", as updated, Florida Department of Agriculture and Consumer Services, Division of Forestry.
  - 2. Comply with the requirements of Chapters 373 and 403, F.S.
  - 3. Comply with the St. Johns River Water Management District Silviculture Rule, Chapter 40C-400.500, F.A.C.
- G. In accordance with policies of the Coastal/Conservation Element of the Comprehensive Plan, St. Johns County has identified rare species and natural communities within the County. The following is a list of Imperiled Habitats within St. Johns County, hereinafter

referred to as Significant Natural Communities Habitat as provided by Florida Natural Areas Inventory.

Imperiled Habitats are:

1. Beach Dune
2. Coastal Grasslands/ Coastal Strand
3. Xeric Hammock
4. Maritime Hammock
5. Sandhill
6. Scrub

- H. A determination of the existence, type, and extent of any Significant Natural Communities Habitat shall be made by the County Administrator in conjunction with appropriate state or federal agencies, by conducting an evaluation upon submission of an application for a Development Permit on all Development Parcels equal to or greater than ten (10) acres in size.

**Sec. 4.01.08 Environmentally Sensitive Areas - Threatened or Endangered Species and Species of Special Concern**

A. Intent and General Provision

1. This Section provides standards and guidelines for the protection of Threatened or Endangered Species or Species of Special Concern, hereinafter referred to as Listed Species in St. Johns County. It is intended that implementation of the provisions in this Section preserve Essential Habitat based on the species and their habitat needs, in order to maintain viable populations of the species.
2. Identification of Listed Species occurrences in St. Johns County shall be obtained from the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service, and Florida Department of Agriculture and Consumer Services for Conservation purposes and Development of wildlife corridors and Greenways.

B. Listed Species

1. Pursuant to policies of the Coastal/Conservation Element of the Comprehensive Plan, any Development which has the potential to endanger Florida manatee or Florida manatee habitat must first ensure compliance with all applicable Florida Department of Environmental Protection regulations before seeking a Development Permit.
2. All species of Marine Turtles which nest on the sand beaches fronting the Atlantic Ocean shall be protected from human interference including beach renourishment, beach front lighting, coastal Construction, mechanical beach clearing, and unregulated vehicular traffic during turtle Nesting Season, in accordance with



policies of the Coastal/Conservation Element of the Comprehensive Plan and Section 4.01.09 of this Part for beach lighting requirements.

3. To protect nesting Marine Turtles and their Hatchlings, the following activities are prohibited on the beach at sunset to sunrise during the Nesting Season (May 1 to October 31):
  - a. Campfires or bonfires
  - b. Any transient lighting, such as flashlights, torches, and gas lanterns, used to purposely illuminate nesting Marine Turtles or Hatchlings. This prohibition does not apply to individuals with appropriate Permits from federal and/or state agencies.
  - c. Horseback riding on the beach during the Nesting Season shall be allowed only seaward of the most high-tide line on the beach during times when such riding is otherwise allowed.
  - d. Permanent Marine Turtle information Signs shall be posted at all public and multi-family private beach access points provided with Dune crossovers by the persons or entities that control such beach access points (the "Property Owner"). The Signs shall be:
    - (1) Standardized by the County.
    - (2) Supplied by the County at cost to private Owner(s) requiring such Signs.
    - (3) Installed so that they are conspicuous to persons accessing the beach at that particular point.
    - (4) Maintained in perpetuity by the private Owner(s) such that information printed on the Signs remains legible and conspicuous to beach users.
  - e. Removal of Marine Turtle information Signs by person(s) other than the applicable property Owner or his agent is prohibited.
4. Existing beach access points must comply with conditions of this Section within six (6) months of the effective date of this Code. New beach access points constructed after the effective date of this Code must comply with conditions of this Section prior to issuance of a Certificate of Occupancy or final Building approval, as applicable.
5. When a Listed Species Essential Habitat occurs onsite, the Developer shall protect the habitat by locating and designing proposed Improvements in coordination with the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service, and Florida Department of Agriculture and Consumer Services to minimize adverse impact to a viable animal or plant population, nesting pair, or nesting colony and to minimize adverse impact to Listed Species Essential Habitat. Onsite Conservation or mitigation requirements shall be established utilizing the

standards and guidelines of the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service, and Florida Department of Agriculture and Consumer Services. However, it is not the intent of this provision to preclude the reasonable use of a Lot or Parcel consistent with this Code.

6. The County Administrator shall conclude that a Listed Species Essential Habitat occurs onsite whenever a species or wildlife has been previously or currently documented to exist on said site by evaluation of the property using survey methodologies as approved by the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service, and Florida Department of Agriculture and Consumer Services. This conclusion shall be rebuttable upon a showing of clear and convincing evidence to the contrary.
7. Protection of a Listed Species Essential Habitat shall consist of Onsite Conservation or Offsite Conservation of the habitat, based on the animal or plant species habitat needs, and shall meet the provisions of Section 4.01.12 for Onsite Conservation or Section 4.01.13 for Offsite Conservation.
8. Pursuant to policies of the Coastal/Conservation Element of the Comprehensive Plan, St. Johns County shall work with the Florida Department of Environmental Protection, Florida Fish and Wildlife Conservation Commission, St. Johns River Water Management District, along with other applicable public and private agencies to develop a Greenways plan for the purpose of establishing wildlife corridors for Listed Species and the protection of Natural Communities Habitat or Essential Habitat, as well as providing passive recreational opportunities such as trails and canoeing. The Greenways Plan shall include the Development of a connected system of lands through one or more of the following areas: existing and future Conservation areas, Natural Preserves, federal and state owned Conservation and Preservation land, public or private greenways, rails-to-trails, and other appropriate areas.

#### **Sec 4.01.09 Lighting Management For Protection Of Marine Turtles**

This Section establishes a lighting management plan for the protection of Nesting Marine Turtles and their Hatchlings. The following are guidelines for the limitations of new and existing private and public exterior and interior lighting to minimize adverse effects on Marine Turtles.

##### **A. Standards for New Construction**

1. Exterior Light Fixtures on New Construction shall comply with the following requirements:
  - a. Except as otherwise permitted herein, the Point Source of Light or any reflective surface of a Light Fixture on New Construction must not be visible from any point on the surface of the beach and illumination of any area of the surface of the beach is prohibited.
  - b. All Light Fixtures that cast light on the beach shall be shielded, recessed, and/or louvered to avoid possible violation of this Section.

- c. Low-profile Light Fixtures shall be low mounted through the use of bollards, ground level Light Fixtures, or low wall mounts, none of which shall be greater than forty-eight (48) inches from the ground or walkway surface.
  - d. Light Fixtures proposed for the seaward, north and south side of the property must be shielded low pressure sodium lamps of sixty (60) watts or less or bug light bulbs of twenty-five (25) watts or less, amber, orange or red SED lighting, or true red neon lighting.
  - e. Light Fixtures for purely decorative accent purposes shall not be used on the seaward, north and south side of a Beach property.
  - f. High intensity Light Fixtures, which may cast light on the beach, such as that proposed for Roadways, Parking Areas and similar applications shall utilize shielded or full cut-off low pressure sodium lamps or amber, orange or red LED lamps. The number of Light Fixtures shall be the minimum for human safety and shall be positioned and mounted in a manner such that the point source of light or any reflective surface of the Light Fixture is not visible from any point on the beach.
  - g. Parking Areas and Roadways, including any paved or unpaved area upon which motorized vehicles will operate, shall be designed and positioned such that vehicular headlights do not directly illuminate the Beach or cast light toward or onto the surface of the beach. Hedges, native Dune vegetation, and/or other ground-level barriers may be utilized to meet this objective.
  - h. Notwithstanding other provisions of this Code, during Construction, temporary security lighting during the Marine Turtle Nesting Season is strongly discouraged. Such security lights shall be shielded and limited to the minimum number and configuration necessary to achieve functional role(s) using low-profile Light Fixtures. Low pressure sodium vapor lamps, low wattage yellow bug lights (25 watts or less), or amber, orange or red LED lamps shall be utilized for this purpose. Under no circumstances shall these lights Directly, Indirectly or Cumulatively illuminate any area of the surface of the beach.
  - i. It is strongly advised that Tinted Glass or Window Film shall be utilized on all windows and glass doors visible from any point on the surface of the beach.
- B. Prior to the issuance of a final County approval or Certificate of Occupancy, for any Improvement on beach front property, compliance with the beach-front lighting standards set forth in this Code shall be approved as follows:
- 1. Prior to receiving a Building Permit for installation of any exterior Light Fixtures which are visible from the beach, the Applicant must obtain approval that the exact type of exterior Light Fixtures to be used complies with this Code.
  - 2. Upon completion of New Construction activities the Permit holder shall request a Night survey of the site with all Light Fixtures turned on.

3. The Night survey shall include inspection findings in writing identifying:
  - a. The date and time of the inspection.
  - b. The extent of compliance with the lighting standards.
  - c. All areas of observed non-compliance, if any.
4. A copy of the inspection findings shall be delivered to the Permit holder.

C. Guidelines for existing Development, including publicly owned lighting.

Permanent exterior Lighting Fixtures on existing Structures installed prior to the effective date of this Code and which create Direct, Indirect, or Cumulative Beach Illumination of the surface of the beach shall be considered as existing Development and the regulations set forth in this Section shall be met to achieve the purpose of this Code.

D. All existing exterior artificial Light Fixtures associated with existing Structures shall meet the following standards during Night hours during Nesting Season each year.

1. No Point Source of Light or any reflective surface of the Light Fixture shall be visible from any point on the surface of the beach.
2. Illumination of any area of the surface of the Beach through Direct or Indirect Illumination is prohibited.
3. Light Fixtures shall have Direct or Indirect Illumination completely shielded from the Beach and shall have non-reflective interior surfaces. Other Light Fixture types that have appropriate shields, louvers, or full cut-off features may also be used if in compliance with this Section.

E. Exterior Light Fixtures, associated with existing Structures, that do not comply with criteria set forth in this Section, shall be modified from May 1st to October 31st each year with one (1) or a combination of the options listed below as necessary to rectify situations not complying with this Section.

1. Reposition the Light Fixture so the Point Source of Light or any reflective surface of the Light Fixture is no longer visible from the surface of the beach.
2. Replace Light Fixtures having an exposed Point Source of Light with Light Fixtures containing recessed, shielded, and/or louvered point sources.
3. Replace all exterior light bulbs with amber, orange, or red colored LED bulbs (25 watts or less), low pressure sodium bulbs, or true red neon lighting.
4. Replace non-directional Light Fixtures with full cut-off Light Fixtures that point down and away from the Beach.
5. Replace Light Fixtures having transparent or translucent coverings with Light Fixtures having opaque shields covering an arc of at least one hundred eighty

(180) degrees and extending below the bottom edge of the Light Fixture so the Point Source of Light or any reflective surface of the Light Fixture is not visible from the surface of the Beach.

6. Replace pole lights with low-profile, low-level, shielded Light Fixtures so that the Point Source of Light or any reflective surface of the Light Fixture is not visible from the surface of the Beach.
7. Replace incandescent, fluorescent and high intensity lighting with the lowest wattage low-pressure sodium vapor lamps possible for the specific application.
8. Plant or improve vegetation buffers between the Light Fixtures and the Beach to screen light from the surface of the Beach.
9. Construct a ground-level barrier to shield the Point Source of Light 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/Dune system.
10. Permanently Remove or disable any Light Fixture which cannot be brought into compliance with these standards.

#### F. Security lighting

Nothing in this Section is intended to or shall limit or discourage the use of flood lights or spot lights of any color activated by motion of a person or vehicle on the property. Any such light shall provide illumination for a period not to exceed five (5) minutes each time motion is detected by it.

#### G. Interior Lighting

One (1) or more of the following measures shall be used as necessary to reduce direct, indirect and cumulative beach illumination resulting from the interior light emanating from doors and windows within line-of-sight of the beach from May 1st to October 31st each year during Night hours.

1. Apply Window Tint or Film that meets the standards for Tinted Glass.
2. Rearrange lamps and other moveable Light Fixtures away from windows.
3. Use Window Treatments to shield interior lights from the Beach and, during the Nesting Season, draw operable coverings each Night; and/or
4. Turn off unnecessary lights.

#### H. Cumulative Beach Illumination

Extensive Development with many light sources scattered over a relatively large area, or intense lighting from facilities may result in Cumulative Beach Illumination. Cumulative Beach Illumination shall be corrected through a reduction in the number, decrease in height or the shielding of the Light Fixtures or other provisions as set forth in this Section. Compliance with this Section may be approved by the County Administrator.

I. Transient Lighting

Any transient lighting, such as flashlights, torches, and gas lanterns, which purposely illuminates nesting Marine Turtles or Hatchlings so that it disrupts their behavior patterns is prohibited. This prohibition does not apply to individuals with appropriate permits from federal and/or state agencies.

J. Recreational Facilities

Recreational Facilities shall follow the requirements of Section 6.09.02.G and may not result in Cumulative Beach Illumination.

K. Compliance Inspections, Penalties and Enforcement

Night-time lighting inspections from the beach shall be conducted at the beginning of each Marine Turtle Nesting Season at least monthly during the Nesting Season to determine compliance or violations of this Section. Enforcement procedures shall be pursuant to Part 10.05.00 of this Code.

**Sec. 4.01.10 Habitat Management For The Bald Eagle**

For the purposes of this Section the U.S. Fish and Wildlife Service will henceforward be known as USFWS and the Florida Fish and Wildlife Conservation Commission will henceforward be known as FWC.

A. Intent

The intent of this section is to maintain and/or improve the environmental conditions that are required for the survival and well-being of the Bald Eagle (*Haliaeetus leucocephalus*) in St. Johns County by minimizing potential detrimental impacts on Bald Eagles particularly during the nesting season defined as October 1 to May 15.

B. Management Zones

This section provides Management Zones with prohibitions and standards for the protection of the Bald Eagle in St. Johns County. Limitations of activities that are allowed in the Management Zones around Bald Eagle nest trees are to minimize the adverse effects on Bald Eagles.

1. Primary Zone: This is the most critical area and must be maintained to promote acceptable conditions for Bald Eagles. The Primary Zone shall be an undisturbed area extending in a minimum radius seven hundred fifty (750) feet outward from the nest tree. This area shall be designated Bald Eagle Primary Zone on all Development or Construction plans.
  - a. To protect Bald Eagles the following activities shall be prohibited in the Primary Zone at all times throughout the year except as provided for in Sections 4.01.10.C and D:

- (1) Residential, commercial or industrial Development including but not limited to Buildings, Accessory Uses, roads, sidewalks, bike paths, trails, and recreation areas.
  - (2) The platting of Lots into the Primary Zone except for the platting of open space. Open space includes buffers, common areas, Environmentally Sensitive Areas, Significant Natural Communities Habitat, Conservation areas, preservation areas and similar areas.
  - (3) Land Clearing, Tree Removal, logging, Construction or mining activity except as provided for in section (6) below or Section 4.01.10.D.4.
  - (4) The use of chemicals which are toxic to wildlife.
  - (5) The shining of search lights or spotlights into the Primary Zone unless necessary at the request of and in the aid of emergency service personnel.
  - (6) Unauthorized human entry. Both the County Administrator and the property Owner (which may be the homeowners association) shall approve authorization of entry into the Primary Zone. Appropriate personnel for entry may include forestry personnel, emergency service personnel or other personnel deemed appropriate by the County Administrator, the FWC and the USFWS. Activities which allow entry into the Primary Zone shall be limited to:
    - Emergency service personnel responding to an emergency call. Emergency Service personnel shall not require prior approval for entry into the Primary Zone.
    - Activities related to management of the Primary Zone for Bald Eagle protection.
    - Activities related to habitat and vegetation maintenance necessary to maintain the habitat quality or reduce the risk of fire.
2. Secondary Zone: Restrictions in this zone are needed to minimize disturbance that might compromise the integrity of the Primary Zone and to protect important areas outside the Primary Zone. The Secondary Zone shall be an area extending outward from the boundary of the Primary Zone a minimum distance of seven hundred fifty (750) feet.
- a. To protect Bald Eagles the following standards shall be required in the Secondary Zone at all times except as provided for in Sections 4.01.10.C. and D:
    - (1) Construction shall be limited to single family housing and approved Accessory Uses. No multifamily, office, commercial, or industrial Development shall be permitted.

- (2) No Building of a height greater than thirty-five (35) feet.
- (3) Lots shall be seven thousand five hundred (7,500) square feet or larger.
- (4) The use of chemicals which are toxic to wildlife.
- (5) Retaining trees greater than 20 feet in height, particularly pine trees, shall be encouraged.

b. To protect Bald Eagles the following standards shall be required in the Secondary Zone at all times during nesting season except as provided for in Sections 4.01.10.C and D.

- (1) No Land Clearing or Tree Removal except as provided for in Section 4.01.10.D.4.
- (2) No installation of utilities, stormwater control systems, septic systems, roads, slabs, Building Pads, pools, drilling, digging, grading, or placing forms.
- (3) The following exterior work is prohibited:
  - Structural wood, concrete block or concrete framing.
  - Installation of structural wall sheathing, Building paper or exterior siding that requires impact tools.
  - Roof truss erection, roof framing, roof sheathing, roof dry-in, roof shingles or tiles.
  - Installation of fencing or decks which are installed using impact tools.
- (4) Minimal hand clearing (no power or power assisted equipment) as necessary for surveying is allowed.
- (5) The number of Light Fixtures proposed for roadways shall be the minimum for human safety and shall be positioned and mounted in a manner such that the point source of light or any reflective surface of the Light Fixture is the least intrusive into the Primary Zone.
- (6) Sound or noise, which exceeds the County noise standards, measured at the base of the nest tree, is prohibited. The intent of this standard is to decrease the loud and abrupt noise associated with some types of Construction activities.

C. Additional Considerations



1. If a Bald Eagle nest is documented to be either unused by a Bald Eagle on or after December 1 or abandoned by a Bald Eagle for thirty (30) consecutive Days on or after December 1, Construction otherwise prohibited in 4.01.10.B.2 may resume in the Secondary Zone if approved by the Board of County Commissioners, the FWC and the USFWS. Documentation shall be provided by personnel approved by the County Administrator, the FWC and the USFWS. The following conditions shall be followed:
  - a. Monitoring of the Bald Eagle nest shall be required upon initiation of Construction and shall be conducted by an Approved Monitor approved by the County Administrator, the FWC and the USFWS. The Developer of the property shall be responsible for providing the Approved Monitor.
  - b. Monitoring of the Bald Eagle nest shall be conducted a minimum of two (2) hours per day throughout Construction activities at such times and at such locations as the Approved Monitor may determine appropriate based upon existing conditions.
  - c. Approved Monitors shall promptly submit a written report to the County Administrator, the FWC and the USFWS if the behavior activities of a Bald Eagle may indicate that the nest is being selected for use.
  - d. Upon determination by the County Administrator, the FWC and the USFWS that a nest has been selected by a Bald Eagle for nesting the provisions of Section 4.01.10.B.2 shall once again be enforced.
2. If on May 15 a Bald Eagle nest remains in use by a Bald Eagle's nestling or fledgling the provision of Section 4.01.10.B.2 shall remain in effect until such time that it is documented that the Bald Eagle is self-sufficient and the nest is vacated. This documentation of self-sufficiency shall include information concerning the ability of the Bald Eagle to hunt or collect food on its own and shall be provided by personnel approved by the County Administrator, the FWC and the USFWS. Upon approval by the Board of County Commissioners, the FWC and the USFWS that the Bald Eagle has vacated the nest, Construction otherwise prohibited in Section 4.01.10.B.2 may resume in the Secondary Zone.
3. If a Bald Eagle nest is documented to be unused for a period of five (5) consecutive nesting seasons it may be requested that the nest be declared abandoned. Personnel approved by the USFWS, the FWC and the County Administrator shall document abandonment. The Board of County Commissioners, the USFWS and the FWC must approve the request for abandonment. Following abandonment, any activity in the Primary or Secondary Zones shall be at the direction of the USFWS and the FWC. If an abandoned nest is reoccupied by a Bald Eagle the provisions of Section 4.01.10 shall then apply.
4. An alternative site specific Bald Eagle Management Plan may be developed for a Bald Eagle nest. Any requested change to Section 4.01.10 shall be subject to approval by the Board of County Commissioners. The protection standards in the site specific Bald Eagle Management Plan shall provide Bald Eagle protection equal to or better than the protection provided in Section 4.01.10. The applicant

has the burden of demonstrating reasonable assurance that such protection is provided.

5. If a new (not previously or historically documented) Bald Eagle nest is identified on undeveloped land of an approved Subdivision, DRI, PUD, PRD or any other zoning allowing for Development, the Development of the land shall proceed in accordance with one of the following:
  - a. Conformance with the standards and guidelines of Section 4.01.10.
  - b. Provide an alternative site specific Bald Eagle Management Plan. Any requested change to Section 4.01.10 Management Zones standards and guidelines shall be subject to approval by the Board of County Commissioners.
  - c. Request a Vesting determination as provided for in Section 10.02.03. A Vesting determination does not abrogate any legal requirement to comply with the regulations of any other governmental agency, local, state or federal, which may have jurisdiction over the proposed activity upon the land.
6. A Construction permit issued on or after June 1 may be subject to a stop work order if the Construction cannot be completed prior to October 1.
7. No person shall take, pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb any Bald Eagle, alive or dead, or any part, nest, or egg thereof as required by Chapter 68A-27, Florida Administrative Code.

#### D. Exceptions

1. The terms of Section 4.01.10 shall not apply to a Bald Eagle nest if the nest has a Bald Eagle Management Plan approved by the Board of County Commissioners prior to the effective date of this Section and all activities have been in compliance with the approved plan.
2. The terms of Section 4.01.10 shall not apply to those Land Alteration activities which are normal and necessary to conduct Bona Fide Agricultural and Silvicultural Operations but shall follow Bald Eagle protection requirements as established by the FWC and the USFWS for these activities.
3. If a residential structure is damaged or destroyed during or following high winds, violent storms, hurricanes, tornadoes, floods, fires or other natural disasters immediate emergency action necessary to provide for public safety may take place in the Secondary Zone during nesting season. The County Administrator shall be notified of any emergency actions taken. Further, repair or replacement of the damaged or destroyed residential structure may take place in the Secondary Zone during nesting season. All Construction shall be approved by the County and be in accordance with all County requirements and with the Land Development Code.
4. If a Lot is damaged during or following high winds, violent storms, hurricanes, tornadoes, floods, fires or other natural disasters the minimum immediate

emergency action necessary to provide for public safety may take place in the Secondary Zone during nesting season. The County Administrator shall be notified of any emergency actions taken.

5. The terms of Section 4.01.10 shall not apply to those activities or conditions that were documented to exist in a Primary or Secondary Zone prior to the Bald Eagle nest or prior to the effective date of this ordinance. Prior to applying this exemption, the County Administrator shall review all activities proposed to be designated as preexisting and shall approve only those activities determined to be preexisting.
6. The terms of Section 4.01.10 shall not apply to a Lot of Record lying within a County required bald eagle protection zone providing the Lot was recorded prior to the existence of the bald eagle nest. The Lot of Record shall be required to follow state and federal standards and guidelines that regulate Development activities with regard to bald eagle protection and the County shall review for compliance with these state and federal standards and guidelines prior to the issuance of a Building Permit.

E. Waivers

1. The Board of County Commissioners may grant site-specific waivers to the provisions in Section 4.01.10. B, C and D or any part thereof to the limited extent necessary:
  - a. To prevent a County taking of private property, or a claim under Section 70.11, Florida Statutes, by action of those provisions that are compensable to the landowner under the law of the State of Florida and the United States of America; or
  - b. Based upon a finding of vesting for the project under the provision of Section 10.02.03 of the Land Development Code; or
  - c. Based upon the applicant providing an alternate Eagle Management Plan being approved by the Board of County Commissioners; or
  - d. To prevent a substantial burden being experienced by a property Owner for a delay that would result in stopping Construction through the nesting season; or
  - e. Based upon a finding that Construction on a residential structure is substantially complete prior to October 1 but due to minor additional Construction activities needed the completion of Construction cannot be accomplished prior to October 1. Minor activities shall be those activities that can be complete no later than thirty (30) Days following approval of the variance.

**Sec. 4.01.11 Environmentally Sensitive Areas - Coastal Conservation**

- A. These regulations are in addition to all other regulations in this Code dealing with Development and Conservation in Coastal Areas. In addition, all Development within Coastal Areas in St. Johns County shall comply with regulations in Chapter 161, F.S.,

Coastal Protection, and the Florida Department of Environmental Protection regulations regarding Construction within the Coastal Construction Control Line.

- B. Development within Coastal Areas shall meet the standards and requirements for Roadway, Drainage, and Utilities Standards in Part 6.04.00 and Flood Damage Control Regulations in Part 3.03.00.
- C. It is the intent of St. Johns County, pursuant to policies of the Coastal/Conservation Element of the Comprehensive Plan, to protect the County's Coastal barrier areas, Dunes, and beaches to avoid or minimize Development seaward of the Coastal Construction Control Line.
- D. Seawalls and other shoreline modifications shall be set at, or landward of, the mean high Water Line, except as provided by Chapter 161, F.S. The County and other agencies in compliance with Chapter 161, F.S., shall coordinate in establishing appropriate setbacks.
- E. In accordance with the provisions of applicable Utility ordinances and the requirements of this Code, users of septic tank systems shall be required to connect to public or private sewer systems once service becomes available in that area.
- F. Dredge and Fill

In accordance with policies of the Coastal/Conservation Element of the Comprehensive Plan:

- 1. The Construction of canals and man-made waterways shall not commence construction until all federal and state Permits have been acquired.
  - 2. All approved dredge and fill activities within the Coastal Area shall meet or exceed all applicable federal, state, and local drainage and floodplain standards.
  - 3. All dredge spoil material shall be placed on suitable disposal sites approved by all agencies with jurisdiction.
  - 4. Approved Best Management Practices, published by the Florida Department of Environmental Protection or the St. Johns River Water Management District shall be used before, during and after Construction to reduce siltation and erosion.
- G. Public Beach Access
    - 1. The County shall not vacate or relocate existing Rights-of-Way, Easements, walkways, and other access points to beaches, shores and waterways, without requiring the grant or dedication of equal or greater access points or Easements, pursuant to policies of the Coastal/Conservation Element of the Comprehensive Plan.
    - 2. Private property Owners adjacent to public beach access points, including Easements, shall not be allowed to restrict public access to the beaches through such access points.

3. The County shall protect the accessibility of public beach access points and Easements pursuant to policies of the Recreation and Open Space Element of the Comprehensive Plan.

#### **Sec. 4.01.12 Natural Preserves**

For any rezoning or change in the Future Land Use Map designation on property adjacent to a publicly owned or private, nonprofit Natural Preserve or Conservation area, the County shall consider the compatibility of the requested change with the function, operation, and management of the Natural Preserve or Conservation area. The County shall seek the recommendations of the managing agency or private-nonprofit organization holding title to the land prior to the rezoning or Comprehensive Plan change.

#### **Sec. 4.01.13 Onsite Conservation**

##### **A. Site Selection**

Where alternative Onsite Conservation sites exist within a Development, the site or sites selected for Onsite Conservation shall be the best suited to likely maintain a viable habitat. The selection shall consider the following factors:

1. Ability to protect and manage the site.
2. The size and shape of the site. Emphasis should be on not creating enclaves of Development or areas fragmented by Development.
3. The contiguity of the site with Significant Natural Communities Habitat or Essential Habitat offsite.
4. The existing species population sizes at the site.
5. The life history requirements of the species involved.
6. The proximity and accessibility of the site to other populations of the same species.
7. The compatibility of Conservation of the site with adjacent land Uses.

##### **B. Conservation methods**

1. Onsite Conservation shall be accomplished through the designation of the site as Conservation Area on all Development Plans and plats.
2. The site or sites selected for Onsite Conservation of Essential Habitat shall meet the guidelines and requirements of the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service, and Florida Department of Agriculture and Consumer Services which shall be determinative of compliance with the requirements of this Section 4.01.12 for Essential Habitat.
3. A landowner may request that St. Johns County accept a transfer of title (by sale or donation) for the conserved area or a dedication of a Conservation Easement

over the area provided that any Conservation Easement offered by the property Owner meets the requirements of Section 704.06, F.S.

#### **Sec. 4.01.14 Offsite Conservation**

The Offsite Conservation requirement may be fulfilled either directly by conserving land offsite or indirectly by contributing to an Offsite Conservation land bank, as provided below:

##### **A. In-kind Conservation**

1. Offsite Conservation sites shall be the same type of habitat or land which can be restored to the same type of habitat as the natural community, Listed Species, or Essential Habitat being adversely impacted onsite by Development.
2. Offsite Conservation sites for the different habitats shall be biologically manageable and appropriate for the Significant Natural Communities Habitat, Listed Species, Essential Habitat requiring protection, or land which can be restored to such habitat. An Offsite Conservation site for Significant Natural Communities Habitat shall be acre-for-acre compensation for the habitat being adversely impacted on-site by Development, unless a deviation is approved by the County Administrator for the preservation of higher quality habitat off-site than is impacted by Development on-site.

##### **B. Site Selection**

1. The location of Offsite Conservation sites shall be within St. Johns County.
2. Offsite Conservation sites for Essential Habitat shall meet all appropriate acquisition Conservation restoration habitat suitability, manageability, size and other provisions as established pursuant to the guidelines of the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service, and Florida Department of Agriculture and Consumer Services which shall be determinative for purposes of establishing Offsite Conservation requirements pursuant to this Section 4.10.13 for Essential Habitat.

##### **C. Conservation Methods**

1. Offsite Conservation sites shall be for the purpose of restoring (if applicable), conserving, and maintaining natural areas in perpetuity.
2. The Developer shall meet the Offsite Conservation acreage requirement through one (1) of the following methods:

###### **a. Land Acquisition**

The Developer may acquire and transfer fee simple title of an appropriate Offsite Conservation site to St. Johns County, a land Conservation governmental agency, or a private, non-profit land Conservation organization.

###### **b. Contribution to an Offsite Conservation land bank**

The Developer may contribute to an Offsite Conservation land bank based upon the land bank's actual cost of acquiring in-kind Conservation lands, plus cost of restoration, if any, plus estimated total cost of management during the life of the land bank, divided by applicable acreage, multiplied by the carrying costs.

c. Conservation Easement

The Developer may acquire through fee simple purchase an appropriate Offsite Conservation site and establish a Conservation Easement in favor of St. Johns County or other land Conservation governmental agency or private, non-profit land Conservation organization in accordance with the requirements of Section 704.06, F.S. When a Developer chooses this option, a Management Plan shall be developed in cooperation with the property Owner which stipulates the limitations on the Use of the land and identifies the habitat management activities and assignments of responsibility.

D. Timing

The Development Permit shall specify the acreage and location of the Offsite Conservation site, the cost and timing of any monetary contributions or offsite acquisitions, the ownership and party responsible for management of the Offsite Conservation site, the location of any onsite Development, including Land Alteration and Construction activities; and shall contain a requirement that any Significant Natural Communities Habitat, Species, or Essential Habitat on the Project site, for which Offsite Conservation is being provided, shall not be disturbed or adversely impacted prior to meeting the Offsite Conservation requirements.

**Sec. 4.01.15 Procedures**

A. Generally

A Development Permit shall be applied for and reviewed pursuant to the Procedure for Issuance of Development Permits in Part 9.01.00, subject to the following:

1. For any Parcel containing a Wetland, Estuary, Natural Water Body, Significant Natural Communities Habitat, or Essential Habitat, no Development Permit shall be issued until the application has also been reviewed and approved in accordance with this Article.
2. To review an application, the County Administrator, in coordination with applicable federal or state agencies, shall conduct onsite inspections, except in cases where adequate information is available to preclude an onsite inspection.
3. Where Trees are located within any Conservation Area, where Land Alteration and Construction activities are proposed, the Rights-of-Way or centerlines of proposed roads, the corners of proposed Buildings, and the locations of proposed stormwater retention or detention basins, man-made lakes, areas that require fill, and other Improvements shall be rough staked upon submittal of the application

and prior to any onsite inspection. If, upon inspection, roads, Buildings, fill areas, and other Improvements have not been identified, the review shall be suspended until these preparations have been completed.

4. Upon review of the complete application, the County Administrator shall approve, approve with conditions, or deny a Development Permit based upon whether the proposal is in compliance with these Regulations and is necessary for one (1) or more of the following reasons:
  - a. Construct Improvements consistent with proper Development or proper physical Use of a Lot or Parcel pursuant to the requirements of this Code.
  - b. For access to a Lot or Parcel or Construction equipment access to and immediately around proposed Structures or other Improvements.
  - c. For essential grade changes or essential surface water drainage or Utility installations.
  - d. Comply with other ordinances, regulations, or codes of St. Johns County.
  - e. For the welfare of the general public for reasons other than those set forth above.
5. In the event the Development Permit is denied, the County Administrator shall notify the Applicant in writing stating specifically the reasons for denial.
6. The Development Permit shall not be issued until Tree Protection Barricades have been erected around all Trees to be retained within the area where Land Alteration or Construction activities are to occur and, where required, around other vegetation to be preserved. Tree Protection Barricades shall remain in place until Land Alteration and Construction activities are completed, or until commencement of grade finishing and sodding.
7. A Development Permit issued for a land Development Project shall limit Land Alteration activities to approved fill areas, road Rights-of-Way, and drainage and Utility Easements and Rights-of-Way, unless otherwise authorized. A separate Lot Grading and/or Building Permit shall be required to undertake Land Alteration activity on individual residential Lots containing Trees or other vegetation.
8. If appropriate, the following requirements shall be addressed through Permit conditions:
  - a. Hauling of Excavated material shall not adversely impact public roads and bridges located along the haul route. The County Administrator shall require the Owner of the land from which material is to be Excavated to construct a paved exit/entry apron at the point of access to a public road if such an apron is needed to protect the road from damage.
  - b. Trucks hauling Excavated material on a public road shall be covered and their tailgates securely latched to minimize dust. The Owner of the land



from which material is being Excavated shall maintain in a satisfactory condition any dirt road segment of the designated haul route.

- c. The County Administrator shall impose reasonable restrictions on the hours and Days of hauling operations when such restrictions are necessary to protect the public health, safety and welfare.

**B. Submittals**

The application for a Development Permit shall contain information as prescribed in the Development Review Manual.

**C. Permit Compliance**

1. A copy of the Development Permit or Development Order shall be posted onsite during Land Alteration activities.
2. The County Administrator may conduct periodic inspections of the site to determine compliance with the Development Permit or Development Order.
3. No Certificate of Completion or Certificate of Occupancy, if required, shall be issued until the County Administrator has determined upon final inspection that the Land Alteration activity was undertaken according to the approved plan and the Development Permit or Development Order, if required.
4. Any Tree planted in accordance with these regulations shall be replaced by the current property Owner if the Tree dies. DBH inch-for-inch replacement shall be provided.

**D. Permit Duration and Extension**

A Development Permit or Development Order shall be effective for a period of two (2) years after issuance unless otherwise specified on the Permit. A two (2) year Permit extension may be granted by the County Administrator within thirty (30) Days after receipt of a written request indicating why an extension is necessary and upon the County Administrator's review of the Project's work schedule, progress and compliance with Part 4.01.00 of this Code. Any Permit not used within the prescribed time limit shall become void and future work shall require a new application.

History: Ord. 1999-60; Ord. 2000-24; Ord. 2001-39; Ord. 2001-63; Ord. 2002-42; Ord. 2005-20; Ord. 2005-118; Ord. 2006-66; Ord. 2006-123; Ord. 2009-2; Ord. 2009-28; Ord. 2012-2; Ord. 2012-23; Ord. 2013-26; Ord. 2015-14; Ord. 2017-17; Ord. 2020-23; Ord. 2022-57