

ARTICLE III. MINIMUM STANDARDS FOR ENVIRONMENTAL PROTECTION

DIVISION 1. GENERALLY

Sec. 50-71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined by Webster's New World Dictionary, Second College Edition.

Agricultural use means the use of land in horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, beekeeping, pisciculture and all forms of farm products and farm production.

Altered wetland means wetlands which have been substantially affected by man, but which continue to be dominated by wetland or transitional vegetation.

Applicant means any person applying for or who has been granted a development order and/or permit to proceed with a project.

Aquifer means an underground formation, group of formations or part of a formation that is permeable enough to transmit, store or yield usable quantities of water.

Armoring means the placement of manmade structures or devices in or near the coastal system for the purpose of preventing erosion of the beach or the upland dune system or to protect upland structures from the effects of coastal wave and current activity. Rigid armoring is the construction of rigid coastal protection structures, such as but not limited to seawalls, bulkheads or revetments. Flexible armoring is the design to bring sand back onto the beach system, for protection, such as but not limited to renourishment or restoration.

Artificial drainage system means any canal, ditch, culvert, dike, storm sewer or other manmade facility which tends to control the surface flow of water.

Artificial lighting means any source of temporary, fixed or movable light emanating from a manmade device, including, but not limited to, incandescent mercury vapor, metal halide, or sodium lamps, spotlights, streetlights, construction security lights or lights which illuminate signs. This definition shall not include hand held or vehicular lighting.

As-built sketch means a drawing or diagram of an irrigation system as it exists at the time of irrigation system completion prepared by or at the direction of the person installing the system. This drawing must be in substantially the same form and contain the information as the sample sketch on file with the Volusia County Health Department.

Automatic system means any irrigation method or system with a timing device that controls the periods of operation.

Beach means lands and waters lying seaward of the seawall or line of permanent vegetation and within three miles seaward of the mean low-water mark.

Best management practices (BMP) means management practices as found in Silviculture Best Management Practices Manual, state department of agriculture and consumer services, division of forestry.

Best management practices (BMPs) for water wise landscape irrigation means a practice or combination of practices, based on research, field-testing, and expert review, and including economic

and technological considerations, determined to be the most effective, practicable, on-location means for improving water quality, conserving water supplies and protecting natural resources.

Buffer means upland areas adjacent to wetlands which are necessary to protect the wetlands and wetland species from the detrimental impacts of development or alteration. The buffer shall include canopy, understory and ground cover which consists of preserved existing vegetation or planted native species.

Building setback line means that line parallel to and of the same configuration as the lot line, and which is located behind the front lot line, the minimum distance required by the front yard requirements of the local government's zoning ordinance, in front of which no structure shall be permitted, erected or placed.

Bulkhead means a structure or partition to retain or prevent sliding of the land. A secondary purpose is to protect the upland against damage from wave action.

Bulkhead line means a governmentally ordered, legally described line, established in or along the Atlantic Ocean, a river, watercourse or other body of water, that establishes the minimum distance from the water any property improvements must be located. The term "bulkhead line" shall include the term "seawall line."

Caliper means the minimum trunk diameter of a replacement tree as measured at a predetermined point of measurement. Trunk diameter for trees up to four inches is to be measured six inches above the soil line. All trees over four inches in diameter will be measured 12 inches above the soil line.

Clearing means the removal of any trees from the land, but shall not include mowing or grubbing.

Coastal construction control line (CCCL) means the county coastal construction control line established by the state department of environmental protection, division of beaches and shores, to define that portion of the beach and dune system which is subject to severe fluctuations based on a 100-year storm surge, storm-induced waves or other predictable weather conditions. This defines the area within which special siting and design considerations are required to ensure the protection of the beach dune system, proposed or existing structures, and adjacent properties, and the preservation of the public beach access.

Community water system means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Deteriorated means degenerated or damaged to the point where the death of the tree is imminent or to the point where the tree poses a significant hazard.

Developer means any person undertaking any development.

Development means any significant manmade change, as determined by the local government, to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, permanent storage of materials, or the dividing of land into two or more parcels. Development includes but is not limited to the following:

- (1) A reconstruction, alteration of the size, or structural change in the external appearance of a structure on land.
- (2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land; or a material increase in the number of businesses, manufacturing establishments, offices or dwelling units on the land as may be determined by the local government.
- (3) Alteration of a shore or bank of a seacoast, river, stream, lake, pond or canal, or stormwater management facilities, including any coastal construction as defined in F.S. § 161.021.

- (4) Mining or excavation on a parcel of land.
- (5) Demolition or removal of a structure.
- (6) Clearing of land as an adjunct of construction.
- (7) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

Diameter at breast height (DBH) means the trunk diameter of a tree measured 4 1/2 feet above the average ground level at the base of the tree. However, if the tree forks 4 1/2 feet above ground level, it is measured below the swell resulting from the double stem. Stems that fork below 4 1/2 feet above ground level should be considered separate trees.

Directly illuminating means illuminated as a result of the glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source which is visible to a person who is in a standing position on the beach.

Director means Director of the Environmental Management Division of the County of Volusia, or authorized designee.

Discharge means the outflow of water from a project, site aquifer, drainage basin or facility.

Distribution equipment means water emitters on irrigation systems including but not limited to sprinklers, rotors, spray heads and microirrigation devices.

District means the St. Johns River Water Management District.

Drainage system and *natural drainage system* mean surface streams or swamps which convey water to natural points of discharge.

Dredging means excavation by any means in water or wetlands. It also means the excavation or creation of a water body which is or is to be connected to waters, directly or via excavated water bodies or a series of excavated water bodies.

Dune means a mound or ridge of loose sediment, usually sand-sized, lying upland of the beach or shore, deposited by any natural or artificial mechanism. The term may also include a beach ridge, dune ridge, chenier or similar topographic feature.

EPA means the United States Environmental Protection Agency.

Even-numbered address means the house address, box number or rural route ending in the numbers 0, 2, 4, 6, 8 or the letters A--M. Post office box numbers are not included.

Existing development means a building or structure for which a building permit has been issued prior to the adoption of this ordinance.

Expansion of irrigation system means any addition to an irrigation system beyond the extent of the original, permitted installation.

Filling means deposition of materials by any means in water or wetlands.

Filter means a device in an irrigation system that separates sediment or other foreign matter.

Fixture means the device that holds, protects, and provides the optical system and power connections for a lamp.

Floodlight means a reflector-type light fixture which is attached directly to a building and which is unshielded.

Florida friendly means practices, materials, or actions that enhance the preservation of Florida's natural resources and protection of the environment.

Florida friendly landscape means a landscape that incorporates the BMPs and philosophies promoted by programs such as Florida Yards and Neighborhoods/Environmental Landscape Management. The programs promote quality landscapes that conserve water, utilize water wise

principles, protect the environment, are adaptable to local conditions, and are drought tolerant.

Ground cover means low growing plants, other than turfgrass, used to cover the soil and form a continuous, low mass of foliage.

Groundwater means water beneath the surface of the ground, whether or not flowing through known and definite channels.

Hardscape means areas such as patios, decks, driveways, paths and sidewalks that do not require irrigation.

Hazardous substances means those materials specified in section 50-283.

Heating and air conditioning use means the use of water for heating, cooling or air conditioning.

High volume irrigation area means a portion of landscaped area of any property that utilizes rotors, pop-up sprays, or sprinkler heads that irrigate more than five gallons per minute (per outlet).

Historic tree means any Live Oak (*Quercus virginiana*) or Bald Cypress (*Taxodium distichum*) 36 inches DBH or greater or any other tree which is 36 inches DBH or greater and is determined by the local governing body to be of such unique and intrinsic value to the general public because of its size, age, historic association, or ecological value as to justify this classification. Any tree in this county selected and duly designated a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be within this definition.

Hydrograph means a graph of discharge versus time for a selected outfall point.

Hydrologic cycle means the movement of water through the environment on, above and below the surface of the earth.

Indirectly illuminating means illuminated as a result of the glowing element(s), lamp(s), globe (s), or reflector(s) of an artificial light source which is not visible to a person who is in a standing position on the beach.

Irrigation contractor means a licensed Volusia County Health Department Certified Pump and Irrigation Contractor, a licensed Florida Water Well Contractor, a Florida State Registered Plumbing Contractor, or a Florida State Certified Plumbing Contractor.

Irrigation system means a device or combination of devices having a hose, pipe, or other conduit connected directly to any source of ground or surface water, through which water, or a mixture of water and chemicals, is drawn and applied for residential, commercial or agricultural purposes.

Irrigation zone means a grouping of rotors, sprinkler heads, pop-up sprays, microirrigation emitters, or other irrigation equipment operated simultaneously by the control of one valve.

Isolated wetlands means wetlands that have no hydrological or vegetative connections with waters of the state as defined in F.S. § 403.031(3).

Lamp means the source of light within a luminaire.

Land means the earth, water or air above, below or on the surface, and includes any vegetation, improvements or structures customarily regarded as land.

Landscape means any combination of living plants (such as turfgrass, ground cover, shrubs, vines, hedges, or trees) and nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

Landscape irrigation use means the outside watering or sprinkling of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora which are planted and established and are situated in such diverse locations as residential landscaping, recreation areas, cemeteries, public, commercial and industrial establishments, public medians and rights-of-way.

Landscaped area means any parcel, excluding the building footprint, driveways, sidewalks,

hardscapes such as decks and patios, and nonporous areas. Water features are included in the calculation of the landscaped area. This area includes Xeriscape as defined in § 373.185(1)(b) F.S.

Local government means any municipality in the county, and the county.

Lot means an area of land which abuts a street and which either complies with or is exempt from the county subdivision regulations, or a municipality's subdivision regulations, and is sufficient in size to meet the minimum area and width requirements for its zoning classification as established in article VII of Ordinance No. 80-8, as amended (the zoning ordinance, appendix B to this Code), or a subdivision or any other tract or parcel of land, including the airspace above or contiguous thereto, intended as a unit for transfer of ownership or for development or both. The word "lot" includes the word "plot," "tract" or "parcel."

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

Low-volume hand watering means the low-volume irrigation of plants or crops with one hose attended by one person, fitted with a self-canceling or automatic shutoff nozzle.

Low-volume irrigation means the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirements of the plant being irrigated and to allow that water to be placed with a high degree of efficiency in the root zone of the plant. Micro-irrigation and drip-irrigation are examples of low-volume irrigation. The term also includes water use in mist houses and similar establishments for plant propagation.

Low volume irrigation area means a portion of landscaped area of any property that uses exclusively microirrigation.

Low-volume pressure cleaning means pressure cleaning by means of equipment which is specifically designed to reduce the inflow volume as accepted by industry standards.

Luminaire means a complete unit that artificially produces and distributes light. An artificial light source, including fixture, ballast, mounting, and lamp(s).

Manual system means any irrigation method or system that does not have a control device that is automatically timed. Low-volume hand watering is a manual system.

Mean high water means the average height of the high waters over a 19-year period. For shorter periods of observation, the term "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

Mean high-water line means the intersection of the tidal plane of mean high water with the shore.

Medium volume irrigation area means a portion of landscaped area of any property that utilizes pop-up sprays or sprinkler heads that irrigate at a rate of one-half to five gallons per minute (per outlet).

Microirrigation means the application of small quantities of water directly on or below the soil surface, usually as discrete drops or tiny streams through emitters placed along the water delivery pipes (laterals.) Microirrigation encompasses a number of methods or concepts including drip, subsurface, bubbler, low volume, or low flow irrigation, all of which emit less than two gallons of water per hour (gph) per outlet.

Mitigation means actions including but not limited to restoration, enhancement or creation of wetlands, required to be taken by a person to offset environmental impacts of permitted activities.

Mobile equipment means any public, private or commercial automobile, truck, trailer, railroad car, camper, boat, or any other type of similar equipment. The term shall not include sanitation or sludge vehicles or food vending or transporting vehicles.

Mulch means nonliving, organic or synthetic materials customarily used in landscape design to retard erosion and retain moisture.

Multifamily/commercial lot means a parcel of land duly subdivided which is zoned by the local government as other than a residential lot as defined in this section.

Municipality means a duly incorporated municipality in the county.

Native coastal vegetation means vegetation growing naturally on the dune systems within Volusia County.

Native vegetation means an area which contains 50 percent or more plant species with a geographic distribution indigenous to all, or part, of the State of Florida, as identified in Wunderlin, R. P. 1998. *Guide to the Vascular Plants of Florida*. University Press of Florida, Gainesville. For the purposes herein, native vegetation does not include areas converted for agricultural use.

Nest means an area where sea turtle eggs have been naturally deposited or subsequently relocated.

Nesting season means the period from May 1 through October 31 of each year.

New development includes new construction and remodeling of existing structures when such remodeling includes alteration of exterior lighting.

New irrigation system installation means an irrigation system permitted after the effective date of this ordinance.

Nonresidential activity means any activity occurring on any described parcel of land, whether or not within a structure, with the exception of residential activity as defined in this section.

Non-transient non-community water system means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.

Odd-numbered address means the house address, box number or rural route ending in the numbers, 1, 3, 5, 7, 9 or the letters N--Z. Post office box numbers are not included.

Owner/contractor means a person who installs an irrigation system on his or her own primary residence.

Permitting authority means the Volusia County Health Department (VCHD) or the municipal designee.

Person means any individual, firm, association, organization, whether social, fraternal of business, partnership, joint venture, trust company, corporation, receiver, syndicate, business trust, or other group or combination acting as a unit, including any government.

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

Pop-up sprays means spray heads, usually hidden in the landscape, that pop-up due to water pressure when activated and provide a continuous spray pattern throughout a given arc of operation.

Portable sprinklers means any type of water sprinkler attached to the end of a hose including, but not limited to impact sprinklers, oscillating-arm sprinklers, and stationary fan sprinklers.

Potable water means water that is satisfactory for drinking, culinary and domestic purposes meeting current state and federal drinking water standards.

Potable water supply well means a potable water well to supply water which has been permitted for consumptive use by the St. Johns River Water Management District or provides water to a community water system or a non-transient non-community water system.

Pressure regulating head means a device that maintains a constant flow and pressure for

increased efficiency of irrigation systems.

Primary containment means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous substance being contained.

Primary dune means the first natural or manmade mound or bluff of sand which is located landward of the beach which has substantial vegetation, height, continuity and configuration.

Primary wellfield protection zone means the land area immediately surrounding any potable water supply well and extending a radial distance of 200 feet.

Product-tight means impervious to the hazardous substance which is or could be contained so as to prevent the seepage of the hazardous substance from the containment system. To be product-tight, the containment system shall be made of a material that is not subject to physical or chemical deterioration by the hazardous substance being contained.

Project means the particular structures and improvements proposed by the applicant on a particular land area which are part of a common plan of development, and shall include the subdivision of land.

Rain sensor device means an operational, electrical or mechanical component placed in the circuitry of an irrigation system that is designed to override a sprinkler controller when precipitation has reached a pre-set quantity.

Recharge means the inflow of water into a project, site aquifer, drainage basin or facility.

Reclaimed water means the water that meets the current state department of environmental protection standards for reuse after flowing out of any treatment plant or works.

Regulated boundaries means the area between the Atlantic Ocean and the westerly boundary of any lots or parcels that abut the westerly right-of-way line of State Road A1A from the Flagler/Volusia County line south to Dunlawton Avenue in Daytona Beach Shores; from Atlantic Avenue south to Ponce DeLeon Inlet; from the northern limits of Peninsula Avenue south to Riverview Place; and from Atlantic Avenue south to Canaveral National Seashore. Said boundaries shall also include any docks, piers or other structures projecting into the Atlantic Ocean.

Replacement tree means any immature tree having an overall caliper of at least two inches, but said term does not include any tree listed as exempt in section 50-169(a)(6).

Residential activity means any building or structure or portion thereof that is designed for or used for residential purposes and any activity involving the use or occupancy of a lot for residential purposes. Residential activity shall include those customary and accessory residential activities associated with the principal permitted use of a lot for residential purposes as set out in the zoning ordinance (appendix B to this Code) or other appropriate ordinance of the local government.

Residential lot means a parcel of land duly subdivided and zoned for single-family or two-family use by the local government.

Reuse means the deliberate application of reclaimed water for beneficial purpose. Uses include landscape irrigation, agricultural irrigation, aesthetic uses, groundwater recharge, industrial uses, fire protection or other useful purposes.

Revetment means a sloped facing structure of an armoring material such as, but not limited to, guarrystone, concrete, or geotextile fabrics, built to protect a scarp, embankment, or shore structure against erosion by wave action or currents.

Runoff means water from rainfall, irrigation, or other sources that is not absorbed by the soil or landscape and flows from the area, often contaminated with pesticides, fertilizers, and other pollutants.

Sea turtles means any specimen belonging to the species *Caretta caretta* (loggerhead turtle), *Chelonia mydas* (green turtle), *Dermochelys coriacea* (leatherback turtle), or any other marine turtle

using Volusia County beaches as a nesting habitat.

Seawall means a structure separating land from water areas, primarily designed to prevent upland erosion and other damage as a result of wave action.

Secondary containment means the level of product-tight containment external to and separate from the primary containment.

Secondary wellfield protection zone means the land area immediately surrounding the primary wellfield protection zone, and extending a radial distance of 800 feet from said primary wellfield protection zone.

Site development plan means the plan as may be required by the local government which shows all site conditions, all proposed site improvements, and the means by which the developer will conform with the requirements of divisions 4 and 5 of this article.

Sign means any surface, fabric, device or display that is designated to advertise, inform, identify or to attract the attention of persons. For the purpose of this article, the term "sign" shall include all structural parts.

Specimen tree. The following species of trees with the minimum specified diameter at breast height are determined to be specimen trees in the county:

TABLE INSET:

Common Name	Botanical Name	DBH
Turkey oak	Quercus laevis	12 inches and larger
Other oak species	Quercus spp.	18 inches and larger
Maple	Acer spp.	18 inches and larger
Sweet gum	Liquidambar styracflua	18 inches and larger
Hickory	Carya spp.	18 inches and larger
Elm	Ulmus spp.	18 inches and larger
Loblolly bay	Gordonia lasianthus	12 inches and larger
Sweet bay	Magnolia virginiana	12 inches and larger
Real bay	Persea borbonia	12 inches and larger
Swamp bay	Persea palustris	12 inches and larger
Sycamore	Platanus occidentalis	18 inches and larger
Magnolia	Magnolia grandiflora	12 inches and larger
Bald Cypress	(Taxodium distichum)	18 inches and larger
Red Cedar	(Juniperup silicicola)	12 inches and larger

Spill means the release or escape of a hazardous substance, directly or indirectly, to soils, surface waters or groundwaters.

Storage system means any one or combination of tanks, sumps, wet floors, waste treatment facilities, pipes, vaults or other portable or fixed containers used, or designed to be used, for the storage of hazardous substances at a facility.

Structure means anything constructed, installed or portable, the use of which requires a location on a parcel of land, such as buildings, trailers, fences, billboards, swimming pools, poles, pipelines, transmission lines, advertising signs, a gas or liquid storage tank, seawall, bulkhead or revetment, or other manmade facilities or infrastructure.

Subdivision means the division of a parcel or tract of land, whether improved or unimproved, into two or more lots or parcels of land for the purpose, whether immediate or future, of any kind of transfer of ownership or right to possession, or for any building development, including a condominium in which there is or is intended to be: (1) any division of any parcel or tract into units, or (2) any division of the airspace into units above or contiguous to any parcel or tract held in common, undivided ownership. If the establishment of a new street is involved, this term shall mean any division of any parcel or tract of land. The term "subdivision" includes a resubdivision and replatting and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided or any definitions employed by a municipality for the term "subdivision" used in its land use regulations.

Substantial irrigation system modification means any modification to existing irrigation systems such that 50 percent or more of the irrigation system is impacted, replaced or altered.

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

Toe means the lowest part of an embankment.

Toe scour protection means the mechanisms, devices, or structures designed to prevent or minimize the removal of material by waves and currents at the base of a beach front structure.

Tree means any woody self-supporting plant characterized by having a single trunk of at least six inches DBH or multistem trunk system with well-developed crown at least 15 feet high as measured from its base, with the exception of those exempted trees listed in section 50-169(a)(6).

Tree survey means a drawing prepared to a scale as may be determined by the local government, which provides the location, DBH and common name of specimen trees located on a given parcel of land intended for development. Said drawing shall show any improvement, structures or buildings proposed on the development. The tree survey need not encompass contiguous property of the applicant which is not to be included within the actual limits of the area subject to development consideration.

Turfgrass means a mat layer of monocotyledonous plants such as Bahia, Bermuda, Centipede, Paspalum, St. Augustine and Zoysia.

Unimproved path means a path cut through the existing dune system which permits pedestrian access to the coastal beaches.

User means any person, natural or artificial individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity, the United States of America, and the state, any political subdivision, region, district, municipality or public agency thereof, which directly or indirectly takes water from the water resource, including but not limited to, uses from private or public utility systems, uses whether or not under consumptive use permits issued pursuant to Chapter 40C-2, F.A.C., or uses from individual wells or pumps for domestic or individual home use or other use. The term does not include persons who use only treated effluent or seawater.

Valve means a device used to control the flow of water in an irrigation system.

Volusia Water Alliance or *VWA* means that regional water supply cooperative organization as created by the May 1996 interlocal agreement pursuant to the provisions of F.S. § 163.01 and as amended and restated.

Walkover means a combination of ramps and stairs elevated over the dune system which link the beaches with public roads and rights-of-way.

Walkway means improved path of either concrete or asphalt, which permits pedestrian access to the coastal beaches.

Water conservation means a continuing effort to use only as much water as absolutely necessary, whether for drinking, washing, flushing, irrigating, or any other use. Water conservation is

awareness that our water resources are not unlimited.

Water detention structure and *water management structure* mean a facility which provides for storage of stormwater runoff and the control release of such runoff during and after a flood or storm.

Water retention structure means a facility which provides for storage of stormwater runoff.

Water shortage means that situation when insufficient water is available to meet the needs of the users, or when conditions are such as to require temporary reduction in total use within a particular area to protect water resources from serious harm. A water shortage usually occurs due to drought.

Water shortage plan means the St. Johns River Water Management District's chapter 40C-21 F.S.C. Water Shortage Plan.

Water wise irrigation means irrigation design, installation, and maintenance that incorporates water efficient strategies and components, such as pressure regulating heads, rain sensor devices, and BMPs.

Water wise principles means appropriate planning and design, proper choice of plants, soil analysis that may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance as set for the in F.S. § 373.185.

Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, acquisition, development or artificial recharge of groundwater; but such term does not include any well for the purpose of obtaining or prospecting for oil, natural gas, minerals or products of mining or quarrying, for inserting media to dispose of oil brines or to repressure oil-bearing or natural gas-bearing formations or for storing petroleum or natural gas or other products or for temporary dewatering of subsurface formations for mining, quarrying or construction purposes.

Wellfield means an area of land which contains or is designated for future use for one or more potable water supply wells.

Wellfield protection zone permit means that permit issued by the local government authorizing the activities provided in section 50-284.

Wetlands shall be as defined in F.S. § 373.019.

(Ord. No. 88-15, § 100.06, 5-19-88; Ord. No. 88-38, § I, 12-1-88; Ord. No. 89-8, § 1, 7-6-89; Ord. No. 89-60, § I, 12-21-89; Ord. No. 90-7, § I, 3-22-90; Ord. No. 90-8, § I, 3-1-90; Ord. No. 90-9, § I, 3-1-90; Ord. No. 91-42, § I, 12-5-91; Ord. No. 95-18, § I, 5-18-95; Ord. No. 96-4, § I, 3-14-96; Ord. No. 98-12, § I, 7-23-98; Ord. No. 99-12, § I, 6-17-99; Ord. No. 00-34, § 1, 10-5-00; Ord. No. 00-35, § 1, 11-9-00; Ord. No. 2004-05, § I, 5-20-04; Ord. No. 2004-17, § I, 12-21-04)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 50-72. Penalty.

Violations of this article are punishable as provided in section 1-7.

Sec. 50-73. Authority.

This article is authorized under article II, section 202.4, of the Charter of the county.
(Ord. No. 88-15, § 100.01, 5-19-88)

Sec. 50-74. Jurisdiction.

This article shall apply in both the incorporated and unincorporated areas of the county.
(Ord. No. 88-15, § 100.02, 5-19-88)

Sec. 50-75. Remedies on failure of municipality to adopt or enforce standards.

In the event a municipality does not enact or enforce the minimum standards contained in this article, the county council may bring suit in the appropriate circuit court to enjoin by mandamus any municipality to require said municipality to adopt such minimum standards for protection of the environment in conformity with article II, section 202.4 of the Charter of the county. This article may also be enforced by any other manner as provided by law.

(Ord. No. 88-15, § 100.03, 5-19-88)

Sec. 50-76. Conflicts with municipal ordinances.

In the event of a conflict between any standard, procedure, requirement or regulation established under this article by a municipal ordinance enacted by a municipality in the county, and a standard procedure, requirement or regulation established by an ordinance of the county, the county ordinance shall prevail within the municipality to the extent of any conflict.

(Ord. No. 88-15, § 100.04, 5-19-88)

Sec. 50-77. Right of municipalities to establish more restrictive standards.

The governing body of each municipality in the county may establish more restrictive standards, procedures, requirements or regulations within the municipality for any division in this article.

(Ord. No. 88-15, § 100.05, 5-19-88)

Secs. 50-78--50-100. Reserved.

**DIVISION 2. STORMWATER
MANAGEMENT***

*Cross references: Stormwater management, app. A, § 801 et seq.

Sec. 50-101. Definitions.

For the purpose of this division the following words shall be defined as provided in section 50-71:

- Agricultural use.
- Applicant.
- Aquifer.
- Artificial drainage system.

Clearing.
Discharge.
Drainage system, natural drainage system.
Existing.
Groundwater.
Hydrograph.
Land.
Local government.
Lot.
Municipality.
Person.
Project.
Recharge.
Structure.
Subdivision.
Water detention structure, water management structure.
Water retention structure.

(Ord. No. 88-15, § 200.00, 5-19-88)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 50-102. Penalty.

Violations of this division are punishable as provided in section 1-7.

Sec. 50-103. Purpose, objectives and intent.

(a) *Purpose.* The county council has determined that the preservation of the water resources of the county is critical to the public health, safety and welfare. Uncontrolled stormwater runoff causes erosion, sedimentation and flooding and prevents recharge of the aquifer upon which the public depends for potable, fresh water. The county council finds it is necessary to impose these minimum standards to control stormwater runoff and conserve the water resources of the county.

(b) *Objectives.* The requirements in this division will allow landowners reasonable use of their property while promoting the following objectives:

- (1) Protect the quantity and quality of groundwater and surface water;
- (2) Prevent the lowering of existing groundwater table elevations to the detriment of these other stated objectives;
- (3) Perpetuate recharge into the groundwater system;
- (4) Prevent and reduce saltwater intrusion;
- (5) Minimize the production of nuisance and disease vectoring mosquitoes;
- (6) Discourage reliance on drainage systems which depend on the use of electrical energy or petroleum fuels to move water, remove pollutants or maintain the systems;
- (7) Reduce wind- or water-caused erosion, loss of valuable topsoils and subsequent sedimentation of surface water bodies;
- (8) Alleviate downstream flood hazards;
- (9) Prevent significant loss of life and property due to runoff from any foreseeable

rainfall event;

(10) Reduce the capital expenditures associated with floodproofing and the installation and maintenance of storm drainage systems;

(11) Minimize the adverse impact of development on the water resources of the county; and

(12) Maximize protection of class II waters.

(c) *Intent.* This division is intended to allow landowners reasonable use of their property provided stormwater runoff peak rates and volumes and the quality of stormwater retained after development shall approximate existing predevelopment conditions and precautions will be taken to prevent erosion, sedimentation and flooding.

(Ord. No. 88-15, §§ 200.01--200.04, 5-19-88)

Sec. 50-104. Adoption of standards by municipalities.

The governing body of each municipality in the county shall, no later than September 1, 1997, submit to the county council its amended ordinance containing the standards in this division for compliance review by the county council. However, prior to this date, a municipality may elect to authorize the county to administer article VIII, pertaining to stormwater management, of the county land development code, Ordinance No. 88-3 (appendix A to this Code), within said municipality. Thereafter, the county council shall review said ordinance for compliance with this division and, after said review, inform the municipality as to whether or not said municipal ordinance is in compliance with this division. Notwithstanding any other provision of this division or the county land development code to the contrary, if such ordinance of the municipality is not enacted or submitted on this date, or is not in compliance with this division, the county council may enforce article VIII, pertaining to stormwater management, of the county land development code, in said municipality, or may enforce this provision as provided in section 50-75.

(Ord. No. 88-15, § 207.00, 5-19-88; Ord. No. 97-5, § I, 2-6-97)

Sec. 50-105. Prohibited acts; exemptions.

(a) *Prohibited acts.*

(1) No person may develop or make any change in the use of land or construct a structure or change the size of a structure, except as exempted in subsection (b) of this section, without first obtaining a permit which meets the minimum environmental protection standards set out in this division.

(2) No building permit, development order or other form of construction approval shall be granted without the prior approval by the local government, of plans exhibiting the methods by which these minimum environmental protection standards shall be met.

(3) For the purposes of this section, the following development may potentially alter or disrupt existing stormwater runoff patterns, and, as such, will, unless exempt pursuant to subsection (b) of this section, require a permit prior to the commencement of construction:

- a. Clearing and/or draining of land as an adjunct to construction;
- b. Clearing and/or draining of nonagricultural land for agricultural purposes;
- c. Converting agricultural lands to nonagricultural uses;
- d. Subdividing land;

- e. Replatting recorded subdivisions and the development of recorded and unrecorded subdivisions;
- f. Changing the use of land and/or the construction of a structure, or a change in the size of one or more structures;
- g. Altering the shoreline or bank of any surface water body;
- h. Filling of depressional areas; and
- i. The lowering of the water table.

(b) *Exemptions.* The following activities may be exempt from these standards:

- (1) Single-family and duplex residences and accessory structures.
- (2) Bona fide agricultural pursuits, including forestry, except where an artificial drainage system will be used to increase the flow of surface water from the applicant's land.
- (3) Maintenance work performed on existing mosquito control drainage canals for the purpose of public health, safety and welfare.
- (4) Maintenance work on utility or transportation systems, provided such maintenance work does not alter the purpose and intent of the drainage system as constructed.
- (5) Any maintenance, alteration, renewal, use or improvement to an existing structure not changing or affecting rate or volume of stormwater runoff.
- (6) Publicly owned landfills permitted under state regulations.
- (7) The one-time construction of any structure or addition not otherwise exempt and does not exceed 4,000 square feet of impervious or semi-impervious surface area subject to vehicular traffic. This area includes roads, parking lots, driveways, and loading zones;
- (8) Construction which does not exceed 5,000 square feet of building area or other impervious area not subject to vehicular traffic.

(Ord. No. 88-15, §§ 201.00--201.02, 5-19-88; Ord. No. 97-5, § II, 2-6-97)

Sec. 50-106. Development categories.

For the purposes of this division, developments requiring a permit application shall be filed with the local government.

(Ord. No. 88-15, § 203.00, 5-19-88; Ord. No. 97-5, § III, 2-6-97)

Sec. 50-107. Performance standards; runoff computations.

(a) *Performance standards.*

- (1) *Generally.* Performance standards to be followed in the design of lesser or standard development projects are as follows:
 - a. Stormwater runoff shall be subjected to best management practice prior to discharge into natural or artificial drainage systems. For purposes of this section, the term "best management practice" shall mean a practice, or combination of practices, determined by the local government to be the most effective, practical means of preventing or reducing the amount of pollution generated by the project to a level compatible with state water quality standards found in chapter 17-3,

Florida Administrative Code.

b. Site alteration activities.

1. No site alteration shall cause siltation of wetlands or pollution of downstream wetlands, or reduce the natural retention or filtering capabilities of wetlands.
2. No site alteration shall allow water to become a health hazard or contribute to the breeding of mosquitoes.
3. All site alteration activities shall provide for such water retention and settling structures and flow attenuation devices as may be necessary to ensure that the standards and requirements of this subsection are met.

c. Design of water retention or detention structures and flow attenuation devices shall be subject to the approval of the local government pursuant to the standards of this division. Detention structures should be designed to release runoff to the downstream drainage system over a period of time so as not to exceed the capacity of the existing downstream system. The local government shall establish minimum side slope standards for open retention and detention areas (ponds, etc.) in accordance with the objectives of this division.

d. A positive drainage system shall be provided which will not adversely impact downstream owners or adjacent lands.

e. Where possible, natural vegetation shall be used as a component of drainage design. The water table should not be manipulated so as to endanger natural vegetation beneficial to water quality unless natural vegetation can be replanted and survive with a lowered water table condition.

f. Runoff from higher adjacent lands shall be considered, and provisions for conveyance of such runoff shall be included in the drainage plan.

g. Runoff shall be treated to remove oil and floatable solids before discharge from the site in a manner approved by the local government.

h. Erosion by wind or water shall be prevented throughout the construction process.

i. Direct discharge to class II waters is prohibited. A workable filter system must be provided prior to any discharge to class II waters.

j. For the purpose of this division, it is presumed that the lowering of the water table for the purpose of constructing detention/retention basins and for the purpose of permanently protecting road construction does not conflict with the stated objectives of this division if all of the following are met:

1. The development site is not in an area known to the local government, based on data collected and interpreted by the U.S. Geological Survey, the St. Johns River Water Management District, the county or municipal engineers, and other professional investigators, as important to recharge or to prevention of discharge of the Floridan Aquifer.
2. The proposed lowering of the water table shall be no more than 15 percent of the site to a depth of five feet below the surface of the existing undisturbed ground, or an equivalent volume, provided that there be a maximum depth of five feet, said area to be measured at the overflow elevation of the retention area.
3. If ditches, underdrains or similar devices are used to lower the water

table, the lateral volumetric effect will be calculated, and the volume will be deducted from that allowed for retention areas.

4. The high-water table may be lowered up to two feet below the undisturbed ground in the vicinity of roads for the purpose of protecting the subbase and base of the roadway and/or for the purpose of preventing mosquito breeding in the roadside swales.

5. The lowering of the water table has no adverse effect on wetlands.

6. The lowering of the water table does not increase flows to the detriment of neighboring lands.

(2) The following additional performance standards are to be followed in the design of the project: The minimum volume of retention to be provided shall be equivalent to one-half inch of depth over the entire project area. For certain soil conditions or groundwater table conditions which do not permit the percolation of this volume within the five days following a storm event, the local government may approve detention with the filtration systems in lieu of retention.

(3) The discharge hydrograph produced for the developed or redeveloped site shall not exceed, in terms of peak flow and total volume, the hydrograph produced by conditions existing before development or redevelopment for a 24-hour, 25-year frequency storm unless the intent of this recharge provision will be met through detention of the difference between said volumes, in which case said volume difference may be released over not less than a 24-hour and not greater than a 72-hour period of time. However, the design standards for wet retention areas, when approved by the local government, shall prevail. This requirement may be waived by the local government for sites consisting predominately of poorly drained soils having permanently and naturally impaired recharge potentials. However, the runoff from the first one inch of rainfall for each storm falling on all areas of the project shall be retained on the site except in cases where the local government concurs that soil and/or groundwater table conditions are not conducive to such practice, in which case said first inch shall be detained and released over a period of 24 to 72 hours, in a manner acceptable to the local government. However, in the case of wet detention, standards approved by the local government shall prevail. In addition, the cumulative impact of the outflow hydrograph on downstream flow shall be considered. Runoff rates and volumes resulting from the project, in excess of existing amounts, shall be accommodated on the site. Off-site retention may be permitted if, in the opinion of the local government, the recharge requirements of this division are met.

(b) *Runoff computations.* Runoff computations shall be based on the most critical situation (rainfall duration, distribution and antecedent soil moisture condition) and conform to acceptable engineering practices using rainfall data and other local information applicable to the affected area.

(Ord. No. 88-15, §§ 204.00, 204.01, 5-19-88; Ord. No. 97-5, § IV, 2-6-97)

Sec. 50-108. Maintenance of installed systems.

The installed systems required by this division shall be maintained by the owner, except that the local government may accept certain systems for maintenance. The systems to be maintained by the owner shall have adequate easements to permit the local government to inspect and, if necessary, to take corrective action should the owner fail to maintain the systems. Should the owner fail to properly maintain the systems, the local government shall give such owner written notice of the nature of the corrective action necessary. Should the owner fail, within 30 days from the date of the notice, to take, or commence taking, the necessary corrective action, the local government may enter upon the property,

take corrective action, and place a lien on the property of the owner for the costs thereof.

(Ord. No. 88-15, § 205.00, 5-19-88)

Sec. 50-109. Emergency work.

This division shall not be construed to prevent the doing of any act necessary to prevent material harm to, or destruction of, real or personal property as a result of a present emergency, including but not limited to fire, infestation by pests, or hazards resulting from violent storms or hurricanes, or when the property is in imminent peril and the necessity of obtaining a permit is impractical and would cause undue hardship in the protection of the property.

(Ord. No. 88-15, § 206.00, 5-19-88)

Secs. 50-110--50-130. Reserved.

DIVISION 3. INDIAN RIVER LAGOON SURFACE WATER IMPROVEMENTS AND MANAGEMENT ZONE*

***Cross references:** Waterways, ch. 126.

Special acts reference--Waterways, ch. 238.

Sec. 50-131. Definitions.

For the purpose of this division, the following words shall be defined as provided in section 50-71:

Existing.
Land.
Local government.
Lot.
Municipality.

(Ord. No. 88-15, § 300.00, 5-19-88; Ord. No. 93-21, § I, 9-16-93)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 50-132. Penalty.

Violations of this division are punishable as provided in section 1-7.

Sec. 50-133. Purpose and intent; applicability.

The purpose of this division is to provide regulations to protect and improve the water quality of the Indian River Lagoon, the county's only class II waters designated by the state department of environmental protection in accordance with rule 17-3.161, Florida Administrative Code, and the only

waters designated for special protection by the state legislature pursuant to the Surface Water Improvement and Management Act (SWIM). Said class II designation authorizes shellfish propagation and harvesting. Said water quality criteria applicable to this class are designed to maintain the minimum conditions necessary to ensure the suitability of water for the designated use of the classification. Said SWIM designation allows for special coordinated protection for these surface waters. The regulations in this division are designed to reduce the negative impacts of development adjacent to the Indian River Lagoon and protect this vital natural resource and the shellfish harvesting industry in this area. The boundaries of the Indian River Lagoon surface water improvements and management zone minimum standards are as follows: on the north by the southern city limits of the City of New Smyrna Beach; on the east by U.S. Highway A-1-A; on the west by U.S. Highway 1; and on the south by the Brevard County line.

(Ord. No. 88-15, § 301.00, 5-19-88; Ord. No. 90-8, §§ II, III, 3-1-90; Ord. No. 91-43, § II, 12-5-91; Ord. No. 93-21, § II, 9-16-93)

Sec. 50-134. Adoption of standards by municipalities.

(a) The governing body of each affected municipality in the county shall, no later than October 1, 1990, submit to the county council its amended ordinance containing the standards in this division. However, prior to this date, a municipality may elect to authorize the county to administer the Indian River Lagoon surface water improvements and management zone regulations within said municipality. Thereafter, the county council shall review said ordinance for compliance with this division and, after said review, inform the municipality whether or not said municipal ordinance is in compliance with this division. If such ordinance of the municipality is not enacted or submitted on this date, or is not in compliance with this division, the county council may enforce its Indian River Lagoon surface water improvements and management zone regulations to the extent geographically described in section 50-133, in accordance with the regulations contained in Ordinance No. 80-8, as amended (the zoning ordinance, appendix B to this Code), in said municipality, or may otherwise enforce this provision as provided by section 50-75.

(b) Notwithstanding the submittal requirements set out in subsection (a) of this section, the governing body of each affected jurisdiction in the county which has previously adopted division 5 of this article, pertaining to minimum environmental standards for wetland protection, is not required to adopt the amendments to this division enacted by the county council on September 16, 1993.

(Ord. No. 88-15, § 307.00, 5-19-88; Ord. No. 90-8, § X, 3-1-90; Ord. No. 93-21, §§ IV, V, 9-16-93)

Sec. 50-135. Shoreline protection.

Vertical seawalls and bulkheads are prohibited except as may be waived by the local government. Hardening of the estuarine shoreline shall be allowed only when erosion is causing a serious, significant threat to life or property. Other shoreline stabilization methods may be used in lieu of vertical seawalls and bulkheads when hardening of the shoreline is approved.

(Ord. No. 88-15, § 302.00, 5-19-88; Ord. No. 90-8, §§ IV, V, 3-1-90; Ord. No. 93-21, § III, 9-16-93)

Sec. 50-136. Landscaping.

Notwithstanding any other provision of this article to the contrary, all development shall contain a minimum of 35 percent open space within property boundaries, landscaped with existing native vegetation or planted native species.

(Ord. No. 88-15, § 303.00, 5-19-88; Ord. No. 90-8, § VI, 3-1-90)

Sec. 50-137. Stormwater controls.

Notwithstanding the provisions of any local government's stormwater management ordinance or provision of division 2 of this article in effect, individual single-family and duplex residential dwellings, not included in a stormwater management plan, shall provide a volume of retention equivalent to one-half inch of depth over the entire site or lot. Prior to the issuance of a building permit, an application shall be submitted to the local government for review. Said local government may approve, modify or deny the application. An appeal of a denial may be provided for by the local government.

(Ord. No. 88-15, § 304.00, 5-19-88; Ord. No. 90-8, § VII, 3-1-90)

Cross references: Stormwater utility, § 122-151 et seq.

Sec. 50-138. Wastewater treatment plants and septic tanks.

(a) Private package wastewater treatment plants may be permitted if the plant is designed to be transformed into a pump station when public central wastewater facilities are available in the area.

(b) Septic tanks for single-family lots shall be located only in the front yard. Where possible, drainfields of said septic tanks shall be located at least 200 feet from any water body or canal.

(Ord. No. 88-15, § 305.00, 5-19-88; Ord. No. 90-8, § VIII, 3-1-90)

Cross references: Utilities, ch. 122; use of septic tanks or other private sewage disposal systems, § 122-55.

Secs. 50-139--50-160. Reserved.

DIVISION 4. TREES*

***Cross references:** Tree permits, app. A, § 1001 et seq.

Sec. 50-161. Definitions.

For the purpose of this division, the following words shall be defined as provided in section 50-71:

- Agricultural use.
- Caliper.
- Clearing.
- Deteriorated.
- Developer.
- Development.
- Historic tree.
- Local government.

Lot.
Multifamily/commercial lot.
Municipality.
Person.
Residential lot.
Site development plan.
Specimen tree.
Subdivision.
Tree.
Tree survey.

(Ord. No. 88-38, § II(400.00), 12-1-88; Ord. No. 98-12, § II, 7-23-98)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 50-162. Penalty.

Violations of this division are punishable as provided in section 1-7.

Sec. 50-163. Purpose and intent.

The county council finds and determines that it is in the best interest of the public health, safety and welfare to protect, preserve trees and enhance tree cover in the county. The items of value of trees are many and varied and include but are not limited to the following:

- (1) Trees are valuable producers of oxygen, a necessary element to the survival of man, and serve to reduce the environmentally dangerous carbon dioxide concentration in the air.
- (2) The leaves of the trees trap and filter out ash, dust and pollen in the air.
- (3) Trees may reduce wind velocity and noise levels.
- (4) Trees may prevent erosion by stabilizing the soil through their root system and by breaking the force of raindrops pounding upon soil surfaces.
- (5) Trees reduce the quantity of surface runoff and reduce the percentages of impervious surfaces.
- (6) Trees help purify water by removing the nutrients from waters passing through the ground from the surface to the groundwater table.
- (7) Trees provide shade and transpire water which helps to moderate temperatures and cleanse the air.
- (8) Trees provide food, shelter and essential habitat for wildlife.
- (9) Trees provide valuable visual aesthetics and psychological contrast to the manmade urban environment.
- (10) Trees are a valuable asset and increase the economic and aesthetic value of developed and undeveloped properties.

Therefore, for the reasons described in this section, the county council has determined that it is necessary to enact this division as minimum environmental standards for tree protection throughout the county.

(Ord. No. 88-38, § II(401.00), 12-1-88)

Sec. 50-164. Adoption of standards by municipalities.

The governing body of each affected municipality in the county, shall, no later than January 31, 1999, submit to the county council its ordinance containing the standards in this division; however, prior to this date, a municipality may elect to authorize the county to administer this division within said municipality. Thereafter, the county council shall review said ordinance for compliance with this division and, after said review, inform the municipality whether or not said municipal ordinance is in compliance with this division. If such ordinance of the municipality is not enacted or submitted on this date or is not in compliance with this division, then, notwithstanding any provision of Ordinance No. 88-3 (the land development code, appendix A to this Code) to the contrary, the county council may enforce article X, pertaining to tree protection, of the county land development code, Ordinance No. 88-3, as amended, in said municipality or may enforce this provision as provided in section 50-75.

(Ord. No. 88-38, § II(411.00), 12-1-88; Ord. No. 98-12, § III, 7-23-98)

Sec. 50-165. Stop work orders.

A local government shall provide for issuance of a stop work order to any person found in the act of cutting down, destroying, damaging or removing trees in violation of this division.

(Ord. No. 88-38, § II(409.00), 12-1-88)

Sec. 50-166. Punishment of violations.

A local government shall provide for the punishment of violations of this division.

(Ord. No. 88-38, § II(410.00), 12-1-88)

Sec. 50-167. Permit required for tree removal.

It is hereby unlawful for any person to cut down, move, remove or destroy through damaging, or to authorize the same, any tree as defined in this division without obtaining a tree removal permit from a local government in accordance with the provisions of this division.

(Ord. No. 88-38, § II(402.00), 12-1-88)

Sec. 50-168. Administrative procedures and review standards for permit applications, variances and appeals.

The local government shall provide for applications, variances and appeals procedures in connection with the issuance of a permit in conformity with this division. Also, said local government shall provide for the standards of review of said applications, which may include but are not limited to:

- (1) The extent to which the actual or intended use of the property requires cutting down or destruction of trees.
- (2) The desirability of preserving any tree by reason of its size, age or some other outstanding quality, such as uniqueness, rarity or status as a historic or specimen tree.
- (3) The extent to which the area would be subject to increased water runoff and other environmental degradation due to removal of the trees.

(4) The heightened desirability of preserving or enhancing tree cover in densely developed or densely populated areas.

(5) The need for visual screening in transitional areas or relief from glare, blight, commercial or industrial unsightliness, or any other affront to the visual or aesthetic sense in the area.

(6) The effect that changes in the natural grade will have on the trees to be protected and preserved.

(Ord. No. 88-38, § II(403.00), 12-1-88)

Sec. 50-169. Exemptions from permit requirement.

(a) Notwithstanding any other provision of this division to the contrary, any person may cut down, destroy or replace or authorize removal of one or more trees whose trunks lie wholly within the boundaries of property owned by said person without obtaining a tree removal permit from the local government in accordance with the following:

(1) Said property is classified (zoned) by the local government for single-family or two-family use, and a single-family or two-family dwelling or mobile home is located on said property, and it is owner-occupied;

(2) Said property contains agricultural uses as defined in this division;

(3) Said property contains trees which may have been determined by the local government to be deteriorated as result of age, hurricane, storms, fire, freeze, disease, lightning or other acts of God;

(4) Said property is within an existing public or private right-of-way or maintenance easement and contains trees which must be removed or thinned to ensure the safety of the motoring public and to maintain visibility of oncoming traffic at intersecting public streets, or such other trees which may disrupt public utilities, such as power lines, drainageways or similar public needs; however, as may be determined by the local government, specimen trees in public or private rights-of-way or utility easements may be removed only upon the issuance of a tree removal permit, and said tree so removed shall be replaced with a replacement tree, and the location of said replacement tree shall be as determined by the local government;

(5) Said property contains trees which are planted and grown for sale to the general public or some public purposes, with licensed plant or tree nurseries and botanical gardens included in this exemption; or

(6) The following species are exempted from the provisions of this division:

TABLE INSET:

Common Name	Botanical Name
Australian pine	Casuarina equisetifolia
Australian pine	Casuarina leipconphloia
Brazilian pepper	Schinus terebinthefolius
Chinaberry	Melia azedarach
Chinese tallow	Sapium sebiferum
Citrus	Citrus species
Ear tree	Enterolobium cyclocarpum

Eucalyptus	Eucalyptus species
Punk tree	Melaleuca leucadendion
Silk oak	Grevillea robusta
Woman's tongue	Albizia lebeck

(b) A local government may at its option delete in whole or in part any of the exemptions described in subsection (a) of this section, but in no case shall the local government include any additional exemptions in its ordinance adopted pursuant to this division.

(Ord. No. 88-38, § II(404.00), 12-1-88)

Sec. 50-170. Tree protection generally.

(a) *Minimum tree coverage.*

(1) In connection with the new construction of any lot, each lot shall contain a minimum of one tree for every 2,500 square feet of lot area (rounded to the nearest whole number). If the lot contains an insufficient number of existing trees to meet this requirement, replacement trees shall be provided.

(2) At the option of local government, cross sectional area may be used as replacement criteria in lieu of a designated tree size, provided the following conditions are met:

a. The minimum tree requirements described in subsections (a)(1) and (2) of this section shall be maintained; and

b. The total cross sectional area provided shall equal or exceed the sum of the cross sectional area of a replacement tree multiplied by the minimum number of replacement trees required.

(3) Trees identified for removal shall be replaced with replacement stock, in the manner as determined by the local government.

(b) *Specimen tree protection.*

(1) A local government shall provide for the protection of specimen trees on all developments either upon site development plan or subdivision approval, or both. The following table sets forth the minimum requirements for the protection of specimen trees:

TABLE INSET:

Number of Specimen Trees	Minimum Specimen Tree Protection Requirement
Less than 3 per acre or a portion thereof	80 percent of all specimen trees
3.0 to 5.0 per acre	65 percent of all specimen trees
5.1 to 8.0 per acre	50 percent of all specimen trees
8.0 or more per acre	4 specimen trees per acre

(2) A tree survey shall be required to locate all specimen trees on the site development. Notwithstanding the exemption of section 50-169(a)(1), the developer of a subdivision shall provide legal mechanisms which ensure the protection of specimen trees after construction has occurred on the development. Such mechanisms may include but shall not be limited to conservation easements, common open space, tree protection easements, deed restrictions and homeowners' association documents. In lieu of said legal mechanism, a local government may provide for permitting procedures for removal

of specimen trees. However, the specimen tree protection requirements set out in this subsection on residential lots shall only apply in the designated setback areas according to the zoning ordinance in effect in the local government.

(c) *Tree protection area.* Fifteen percent of the square footage of any development shall be designated for the protection of trees. The area required to protect specimen trees may be included to satisfy this requirement. This required area may be constituted as one or more subareas within the development. Said area may include any landscape buffer or other landscape areas required by any local government on a development. Such designated areas shall contain sufficient land area to comply with minimum tree protection standards to adequately protect the trees contained within the areas. A minimum of 50 percent of the required minimum number of trees as provided in subsection (a) of this section shall consist of existing trees within said area. The local government may provide for a waiver or modification of this requirement if the development contains an insufficient amount of existing trees to meet this requirement or if the local government determines that modification of this requirement is warranted by specific on-site conditions.

(d) *Historic trees* shall only be removed upon approval of a tree permit granted by the local governing body.

(Ord. No. 88-38, § II(405.00), 12-1-88; Ord. No. 98-12, § IV, 7-23-98)

Sec. 50-171. Relocation of trees.

The local government may provide for the relocation of existing trees to suitable areas within the development. Relocation shall be performed in accordance with sound industry practices, including watering to ensure survival of replacement trees. Relocated trees may be applied toward required replacement trees.

(Ord. No. 88-38, § II(406.00), 12-1-88)

Sec. 50-172. Natural vegetation retention areas.

Areas of a development may be designated as natural vegetation retention areas, indicating that all existing vegetation shall remain undisturbed on the area site. Under this designation, trees which contain sufficient size to meet the minimum replacement size and up to six inches DBH size may be retained as replacement trees. Replacement trees shall be considered protected trees and shall be spaced sufficiently far apart to allow adequate growth room for the species.

(Ord. No. 88-38, § II(407.00), 12-1-88)

Sec. 50-173. Tree survival.

Except for any exemptions contained in section 50-169, all trees relocated, replaced or existing within the terms of the division shall be replaced in the event said trees expire. If the development otherwise meets the minimum requirements of section 50-170(a), the local government may waive the replacement requirements. To ensure survival of trees, a local government shall also utilize the provisions of the Tree Protection Manual for Builders and Developers published by the state department of agriculture and consumer services, division of forestry, or other comparable protection requirements.

(Ord. No. 88-38, § II(408.00), 12-1-88)

Secs. 50-174--50-200. Reserved.

DIVISION 5. WETLANDS*

***Cross references:** Wetland alteration permits, app. A, § 1101 et seq.

Sec. 50-201. Definitions.

For the purpose of this division, the following words shall be defined as provided in 50-71:

Agricultural use.
Altered wetland.
Best management practices (BMP).
Buffer.
Clearing.
Developer.
Dredging.
Filling.
Isolated wetlands.
Local government.
Lot.
Mitigation.
Municipality.
Person.
Wetland vegetation.

(Ord. No. 89-8, § 2(500.00), 7-6-89)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 50-202. Penalty.

Violations of this division are punishable as provided in section 1-7.

Sec. 50-203. Findings.

The county council, finds the following facts to be true and a sufficient basis, either individually or in combination, to justify the restrictions which are set forth in this division:

- (1) Wetlands contiguous to waters of the state, noncontiguous and isolated wetlands serve the following important functions in the hydrologic cycle and ecological system:
 - a. Riverine wetlands and adjacent floodplain lands provide natural storage and conveyance of floodwaters.
 - b. Coastal wetlands and inland wetlands adjoining larger lakes and rivers act as barriers to waves and erosion.
 - c. Inland wetlands provide temporary storage of surface waters during times of flood, thereby regulating flood elevations and the timing, velocity and rate of flood discharges.

- d. Wetlands temporarily store flood flows and reduce the velocity of floodwaters, reducing erosion and facilitating the settling of suspended sediment. Wetland vegetation filters and detains sediment which would otherwise enter lakes and streams.
- e. Wetlands may protect water bodies by providing settling of suspended sediments, assimilation of nutrients and uptake of other natural and manmade pollutants. Wetland vegetation filters sediment, organic matter and chemicals. Microorganisms utilize dissolved nutrients and break down organic matter.
- f. Coastal wetlands are important sources of nutrients for fish and shellfish and as spawning grounds. Inland wetlands adjacent to rivers, streams and lakes are important to freshwater fisheries as spawning grounds.
- g. Both coastal and inland wetlands provide essential breeding and predator escape habitats for many forms of mammals, birds, reptiles, amphibians, fishes and invertebrates.
- h. Wetlands provide essential habitat for many rare, endangered and threatened species.
- i. Wetlands provide excellent recreational opportunities, including but not limited to fishing, hunting, camping, photography, boating and nature observation.
- j. Wetlands, especially those in karst terrain, do contribute to surface water storage and may contribute to groundwater recharge.

(2) Considerable acreage of wetlands has been lost, and their important functions impaired, by draining, dredging, flooding, filling, excavating, building, polluting and other acts. Remaining wetlands are in jeopardy of being lost or impaired by such acts. The loss of important wetland functions are contrary to the public health, safety and welfare.

(3) Even though current federal, state and regional regulations protect important wetlands and their functions, local governments have the authority to adopt regulations affording additional protection.

(Ord. No. 89-8, § 2(501.00), 7-6-89)

Sec. 50-204. Purpose and intent.

It is the purpose and intent of this division to provide for the protection, maintenance, enhancement and utilization of wetlands within the county, recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the rights of all citizens to protection and purity of the waters of the county and their associated wetland ecosystems. It is the policy of the county to minimize the disturbance of wetlands in the county and to encourage their use only for the purposes which are compatible with their natural functions and environmental benefits. It is further the purpose and intent of this division to ensure that there be no net loss of wetlands as defined in this division. To this end, a wetland management plan shall be required as provided in this division.

(Ord. No. 89-8, § 2(502.00), 7-6-89)

Sec. 50-205. Jurisdiction.

All wetlands in the county are regulated as provided in this article and are therefore subject to jurisdiction of this division.

(Ord. No. 89-8, § 2(503.00), 7-6-89)

Sec. 50-206. Exemptions.

(a) Activities which are exempted from this division include:

- (1) Nonmechanical clearing of vegetation from an area of less than ten percent of the wetland.
- (2) Minor maintenance or emergency repair to existing structures or improved areas.
- (3) Cleared walking trails having no structural components.
- (4) Timber catwalks and docks four feet wide or less.
- (5) Bona fide agricultural uses.
- (6) Utility crossings.
- (7) Maintenance, together with incidental dredge and fill activities, in ditches, retention and detention areas, public road and other rights-of-way, and other related drainage systems.
- (8) Bona fide mosquito control activities reviewed by the technical subcommittee on managed marshes.
- (9) Wetlands one-half acre or smaller; provided, however, if the entire wetland exceeds this threshold for exemption, whether on one or more lots, then the entire wetland is regulated as otherwise provided in this division.
- (10) Activities within artificial wetlands which are created as part of a manmade treatment system.
- (11) Activities where a federal, state, regional or local government completed dredge and fill or wetland application was tendered to said government on or before the adoption of the local government's implementing ordinance.
- (12) Silviculture activities which follow the best management practices outlined in the publication Silviculture Best Management Practices Manual, state department of agriculture and consumer services, division of forestry, most recent edition; provided, however, failure to follow said practices shall be a violation of this division. The use of the Management Guidelines for Forested Wetlands in Florida, state department of agriculture and consumer services, shall be encouraged.
- (13) Developments which require the issuance of a development order by a local government for a site development plan or subdivision and have obtained a valid environmental resource permit from the Florida Department of Environmental Protection or the St. Johns River Water Management District.

(b) A local government may at its option delete in whole or in part any of the exemptions described in subsection (a) of this section, but in no case shall the local government include any additional exemptions in its ordinance adopted pursuant to this division unless otherwise approved by the county council.

(Ord. No. 89-8, § 2(511.00), 7-6-89; Ord. No. 96-4, § II, 3-14-96)

Sec. 50-207. Adoption of standards by municipalities.

The governing body of each affected municipality in the county, shall, no later than September 1, 1996, submit to the county council its amended ordinance containing the standards in compliance with this division; provided, however, prior to this date, a municipality may elect to authorize the county

to administer this division within said municipality. Thereafter, the county council or county staff shall review said ordinance for compliance with this division and, after said review, inform the municipality whether or not said municipal ordinance is in compliance with this division. If such ordinance of the municipality is not enacted or submitted on this date or is not in compliance with this division, then, notwithstanding any provision of Ordinance No. 88-3, as amended, (the land development code, appendix A to this Code) to the contrary, the county council may enforce its wetland protection ordinance in said municipality, or may enforce this provision as provided in section 50-75. In the event said enforcement occurs by the county in a municipality through its application of Ordinance No. 88-3, as amended, a municipality may subsequently adopt an ordinance complying with the standards contained herein and said Ordinance No. 88-3, as amended, shall not be applicable in the municipality upon a compliance review of said municipal ordinance by the county council or county staff.

(Ord. No. 89-8, § 2(512.00), 7-6-89; Ord. No. 96-4, § III, 3-14-96; Ord. No. 99-4, § I, 3-4-99)

Sec. 50-208. Enforcement.

The local government shall provide for the enforcement of the provisions of this division and its wetland alteration permit (including all conditions attached to it by any federal, state or regional agencies). Such enforcement mechanisms shall include but not be limited to stop work orders, injunctions or imposition of penalties, fines and liens as provided by law.

(Ord. No. 89-8, § 2(506.00), 7-6-89)

Sec. 50-209. Wetland alteration permit.

(a) It is hereby unlawful for any person to engage in any activity which will remove, fill, drain, dredge, clear, destroy or alter any wetland without obtaining a wetland alteration permit from the local government on an individual single-family residential lot in accordance with the provisions of this division. Said permit may be issued concurrent or in conjunction with other land development permits. It is the intent of this section that construction of a single-family dwelling on upland which does not alter by moving, filling, draining, dredging, clearing or destroying any wetland shall not require a permit pursuant to this section. Provided, however, no such individual single-family residential lot permit shall be required in the event a valid St. Johns River Water Management District or Florida Department of Environmental Protection Environmental Resource Permit has previously been issued for a development covering the same area of land.

(b) The local government shall provide for applications and any conditions thereof, variances and appeal procedures in connection with the issuance of a wetland alteration permit in conformity with this division.

(c) For single-family residential lots, the local government may adopt or supplement permit requirements or conditions issued from other federal, state or regional permitting agencies for the same development.

(d) In determining whether the development is permissible under the provisions of this division, the local government shall consider but not be limited to the following criteria:

(1) The ability of the wetland to receive, store and discharge surface water runoff so as to contribute to hydrological stability and control of flooding and erosion.

(2) The ability of the wetland to recharge the groundwater as demonstrated by reliable available information.

(3) The ability of the wetland to provide filtration and nutrient assimilation from surface

water runoff.

(4) The ability of the wetland to provide habitat and significant ecological function in the life cycle for fish, wildlife or other forms of animal or plant life.

(5) The ability of the wetland to function as an integral part of any waters, water body or watercourse.

(6) The cumulative impacts of the proposed development on the wetland system in combination with other developments which have been or shall be proposed in the same drainage basin.

(7) The technical feasibility of any proposed wetland mitigation plans and the likelihood of their success in restoring or replacing the environmental benefit altered by the development.

(8) The capacity of the existing wetland to provide environmental benefits because of such factors as maturity, size, degree of prior alteration, physical relationship to other water systems, and adjacent land uses.

(9) The degree or magnitude of the impact of the proposed alteration on the wetland and how such impact shall be minimized through mitigation measures, either off-site or on-site, or both, and recommendations concerning the appropriate location of said mitigation.

(10) Whether, and the extent to which, a proposed project must be located within a wetland or water body in order to perform the project's basic functions.

(e) The local government shall require an application for said wetland alteration permit, and it shall include but not be limited to:

(1) The name of the applicant.

(2) A sketch, map or survey with the type and extent of wetland mapped to scale, unless previously depicted on an approved permit or application from a federal, state or regional agency.

(3) For projects which impact one-half acre or more, a wetland management plan that shall contain sufficient information for the local government to evaluate the environmental characteristics of the wetlands, the potential and predicted impacts of the proposed activities on wetlands and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts. The wetland management plan should include but not be limited to a detailed analysis of the following:

a. A description of all water bodies, watercourses and wetlands on the site and a general description of wetlands immediately adjacent to the site.

b. A map of the natural systems on the site.

c. The existing environmental and hydrologic conditions of the site.

d. A plan for control of erosion and sedimentation which describes in detail the type and location of control measures, and provisions for maintenance.

e. A detailed description of methods to be utilized in meeting the criteria listed in this section.

f. Other information which the local government may reasonably require to determine whether to approve the wetlands alteration permit.

(f) The local government may issue a wetlands alteration permit, which may incorporate the general and specific conditions which were made part of the permit from federal, state or

regional agencies; provided, however, before the issuance of the local government wetlands alteration permit, said federal, state or regional permit application, when available, shall be furnished to the local government. Concurrent applications to the local government and any federal, state or regional agency shall be encouraged.

(g) The wetland alteration permit shall not be approved unless the wetland management plan clearly indicates that the proposed development will meet the performance standards described in section 50-210.

(h) The local government may seek permitting delegation from any or all of the federal, state or regional permitting agencies exercising jurisdiction and regulatory programs over wetlands and/or dredge and fill activities.

(i) The local government shall establish a mechanism to inform the federal, state or regional agencies of alleged violations of its dredge and fill or wetland rules and regulations.

(Ord. No. 89-8, § 2(504.00), 7-6-89; Ord. No. 96-4, § IV, 3-14-96)

Sec. 50-210. Performance standards.

(a) There shall be no net loss of wetland function.

(b) Any alteration of wetlands shall be mitigated in accordance with the requirements of section 50-213.

(c) Wetlands shall be protected from sedimentation during development activities.

(d) Wetlands shall be protected or used in a manner which does not adversely impact their beneficial functions as provided in 50-203.

(Ord. No. 89-8, § 2(505.00), 7-6-89)

Sec. 50-211. Wetland identification.

(a) The landward extent of wetlands delineation shall be as provided in rule 62-340, Florida Administrative Code.

(b) In the event an undeveloped area has been recently cleared of all vegetation, the wetland boundary may be determined by a study of the soils, aerial mapping, photography, hydrology and other historical information as appropriate.

(Ord. No. 89-8, § 2(507.00), 7-6-89; Ord. No. 96-4, § V, 3-14-96)

Sec. 50-212. Designation of areas suitable for off-site mitigation.

Any local government in which wetlands are located within its jurisdictional boundaries shall designate lands which are suitable for creation, acquisition, restoration or preservation of wetlands or wetland habitat systems, including adjacent upland habitat. The purpose of such designation is to identify areas suitable for the off-site mitigation of the impacts of wetland alteration. Such lands may be on public or private property.

(Ord. No. 89-8, § 2(508.00), 7-6-89)

Sec. 50-213. Mitigation requirements.

(a) If an applicant for a permit under this division fails to overcome the presumption that the proposed activity will have a significant effect upon the wetland, and the local government finds the imposition of permit conditions inadequate to minimize potential adverse environmental effects, mitigation shall be required. The purpose of mitigation is to offset unavoidable environmental impacts. Mitigation plans should consider the function of existing natural resources and provide comparable functions after mitigation is completed. Mitigation plans should maximize the preservation of existing natural resources. The mitigation plans shall consider the following methods, in order of priority in which they should be utilized:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (2) Minimizing impacts by limiting the degree or magnitude of the action or its implementation.
- (3) Rectifying the impact by repairing, rehabilitating or restoring the affected environment.
- (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (5) Compensating for the impact by replacing or providing substitute resources or environments through creation of new wetlands, enhancement of existing wetlands or reestablishment of wetlands which are no longer functioning due to insignificant attention in the past.

(b) Where all or part of a wetland is destroyed or substantially altered by development, an acceptable mitigation plan shall include at least:

- (1) Replacement of the same type of wetland on at least a one-to-one ratio unless the value of the wetland based on its functional value is determined to warrant a greater or lesser ratio. There should be like kind replacement, i.e., saltwater system for saltwater system, and freshwater for freshwater, where practicable.
- (2) Specific design requirements based upon conditions of the site and the type of wetland to be created or restored.
- (3) Periodic monitoring to remove exotic or nuisance vegetation.
- (4) Monitoring and replacement to ensure a survival rate of 80 percent wetland vegetation for a minimum of three years.
- (5) An upland habitat as an adjacent buffer on mitigated sites.

(c) An acceptable mitigation plan shall be reasonably and technically feasible. Mitigation through restoration of other degraded wetlands is preferred over wetland creation.

(d) Mitigation should take place on-site or in close proximity thereto or in areas so designated as provided in section 50-212.

(e) An applicant who carries out a compensatory mitigation plan shall grant a conservation easement on the newly created or restored wetland and buffer to protect it from future development. A legal mechanism other than a conservation easement may be deemed appropriate on a case-by-case basis to carry out the purpose of the subsection.

(f) A mitigation plan approved by a federal, state or regional agency shall be presumed to be acceptable to the local government; provided, however, if no such mitigation plan is required by the approved permit from the federal, state or regional agency, then the local government may at its option adopt a mitigation plan in compliance with this section.

(g) Mitigation should not contribute to the production of mosquitoes by creating mosquito larval habitat or by eliminating habitat for predatory fish.

(Ord. No. 89-8, § 2(509.00), 7-6-89; Ord. No. 96-4, § VI, 3-14-96)

Sec. 50-214. Buffers.

(a) The local government shall establish a buffer of not less than 25 feet adjacent to and surrounding all wetlands. The buffer may coincide with the setback on a lot under the zoning ordinance in effect in the local government or may coincide with wildlife corridors designated in a local government's comprehensive plan. However, said buffer shall not impede reasonable access to a body of water.

(b) Activities or construction which do not have a significant adverse effect on the natural function of the buffer may be allowed within the buffer. The activities or construction include but are not limited to pruning, planting of suitable native vegetation, removal of exotic and nuisance pioneer plant species, and the creation and maintenance of walking trails.

(c) Except for individual single-family residential lots as provided in this division, developments which have been issued a valid environmental resource permit from the Florida Department of Environmental Protection or the St. Johns River Water Management District shall not be subject to the requirements of this section.

(Ord. No. 89-8, § 2(510.00), 7-6-89; Ord. No. 96-4, § VII, 3-14-96)

Secs. 50-215--50-240. Reserved.

DIVISION 6. SEA TURTLES*

***Cross references:** Beaches, ch. 20; sea turtle protection, app. A, § 1201 et seq.

State law references: Marine Turtle Protection Act, F.S. § 370.12.

Sec. 50-241. Definitions.

For the purpose of this division, the following words shall be defined as provided in section 50-71:

- Artificial lighting.
- Beach.
- Coastal construction control line (CCCL).
- Development.
- Directly illuminating.
- Dune.
- Existing development.
- Fixture.
- Floodlight.
- Indirectly illuminating.
- Lamp.
- Local government.
- Low-profile luminaire.
- Luminaire.

Municipality.
Nest.
Nesting season.
New development.
Pole lighting.
Regulated boundaries.
Sea turtles.
Sign.
Tinted glass.

(Ord. No. 89-60, § II(600), 12-21-89; Ord. No. 95-18, § II, 5-18-95; Ord. No. 99-12, § II, 6-17-99)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 50-242. Penalty.

Violations of this division are punishable as provided in section 1-7.

Sec. 50-243. Purpose.

The purpose of this division is to protect the threatened and endangered sea turtles which nest along the beaches of the county, and to encourage sea turtle nesting on county beaches, by minimizing the artificial light on the beaches.

(Ord. No. 89-60, § II(601), 12-21-89)

Sec. 50-244. Adoption of standards by municipalities.

The governing body of each affected municipality in the county, shall, no later than four months from the amended effective date of the ordinance from which this division is derived, submit to the county council, its ordinance containing the standards in this division; provided, however, prior to this date, a municipality may elect to authorize the county to administer this division within said municipality. Thereafter, the county council or staff shall review said ordinance for compliance with this division and, after said review, inform the municipality whether or not said municipal ordinance is in compliance with this division. Before such ordinance of the municipality is enacted or alternatively if an ordinance is not submitted within four months from the effective date of this amended section or is not in compliance with this division, then, notwithstanding any provision of chapter 20, the county council shall otherwise enforce article XII of Ordinance No. 88-3, as amended (land development code, appendix A to this Code) in said municipality, or may enforce this provision as provided in section 50-75.

(Ord. No. 89-60, § II(609), 12-21-89; Ord. No. 95-18, § III, 5-18-95; Ord. No. 99-12, § III, 6-17-99)

Sec. 50-245. Administrative procedures for permit applications, variances and appeals.

The local government shall provide for applications, variances and appeal procedures in connection with the issuance of any permit or approval in conformity with the provisions of this division.

(Ord. No. 89-60, § II(605), 12-21-89)

Sec. 50-246. Stop work orders.

A local government shall provide for issuance of a stop work order to any person found in violation of this division.

(Ord. No. 89-60, § II(607), 12-21-89)

Sec. 50-247. Punishment of violations.

A local government shall provide for the punishment of violations of this division.

(Ord. No. 89-60, § II(608), 12-21-89)

Sec. 50-248. Sea turtle nesting areas.

Sea turtles nest or are likely to nest in an area of the beach from the Volusia/Flagler County line south to the Volusia/Brevard County line.

(Ord. No. 89-60, § II(602), 12-21-89; Ord. No. 99-12, § IV, 6-17-99)

Sec. 50-249. Lighting standards for new development.

(a) It is the policy of the county to minimize artificial light illuminating the entire coastal beach of the county, and said lighting for new development shall be regulated as provided in this section. To meet this intent, building and electrical plans and the construction of single-story or multi-story buildings or structures, signs, commercial or other structures, including electrical plans associated with parking lots, dune walkovers or other artificial lighting for real property, within the incorporated and unincorporated regulated boundaries shall be in compliance with the following:

(1) Light fixtures shall be designed, positioned, shielded, or otherwise modified such that the source of light and any reflective surfaces of the fixture shall not be directly visible by a person who is in a standing position on the beach.

(2) Lights shall not directly or indirectly illuminate the beach during the sea turtle nesting season.

(3) Tinted glass, or any window film applied to window glass which meet the shading criteria for tinted glass, shall be installed on all windows of single- or multi-story buildings or structures within line of sight of the beach in the regulated boundaries.

(4) Lights illuminating signs shall be shielded or screened such that they do not illuminate the beach and the source of the light shall not be visible by a person who is in a standing position on the beach.

(b) The provisions of this section, as amended, shall not apply to any structure for which a building permit has been issued prior to adoption of this ordinance.

(Ord. No. 89-60, § II(603), 12-21-89; Ord. No. 95-18, § IV, 5-18-95; Ord. No. 99-12, § V, 6-17-99)

Sec. 50-250. Lighting standards for existing development.

(a) It is the policy of the county council to minimize artificial light illuminating the entire coastal beach of the county. To meet this intent within the regulated boundaries, artificial lighting of existing buildings, structures or signs within the line of sight of the beach, shall be in compliance with the following by July 1, 1999:

(1) Light fixtures shall be designed, positioned, shielded, or otherwise modified such that the source of light and any reflective surfaces of the fixture shall not be visible by a person who is in a standing position on the beach.

(2) Lights shall not directly or indirectly illuminate the beach during the sea turtle nesting season.

(3) Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened such that they do not illuminate the beach and the source of the light shall not be visible by a person who is in a standing position on the beach, or said lights shall be turned off during the sea turtle nesting season.

(4) Lights illuminating dune crosswalks of any area oceanward of the dune line shall comply with (1) or (2) above during the sea turtle nesting season.

(5) Lights illuminating signs shall be shielded or screened such that they do not illuminate the beach and the source of the light shall not be visible by a person who is in a standing position on the beach, or said lights shall be turned off during the sea turtle nesting season.

(6) The following measures shall be taken to reduce or eliminate the negative effect of interior lights illuminating from doors and windows within the line of sight of the beach in the regulated boundaries:

- a. Apply window tint or film that meets the standards for tinted glass;
- b. Rearrange lamps and other moveable fixtures away from windows;
- c. Use window treatments (e.g., blinds, curtains) to shield interior lights from the beach; and
- d. Turn off unnecessary lights.

(7) Local governments shall develop and implement a public education program, primarily directed toward encouraging the management of interior lighting for single- and multi-story buildings or structures.

(Ord. No. 89-60, § II(604), 12-21-89; Ord. No. 95-18, § V, 5-18-95; Ord. No. 99-12, § VI, 6-17-99)

Sec. 50-251. Publicly owned lighting.

(a) Streetlights and lighting at parks and other publicly owned beach access areas located within the incorporated or unincorporated regulated boundaries shall be in compliance with the following by July 1, 1999:

(1) Streetlights, and lighting at parks or other publicly owned beach access points shall be designed, positioned, shielded, or otherwise modified such that they shall not illuminate the beach and the source of the light shall not be visible by a person who is in a standing position on the beach.

(b) Specifically exempted from the terms of this division are lights which are aids to navigation, motion sensors and traffic control devices.

(Ord. No. 89-60, § II(606), 12-21-89; Ord. No. 95-18, § VI, 5-18-95; Ord. No. 99-12, § VII, 6-17-99)

Sec. 50-252. Reserved.

Editor's note: Section VIII of Ord. No. 99-12, adopted June 17, 1999, repealed § 50-252 in its entirety. Formerly, § 50-252 pertained to the enforcement of the sea turtle ordinance and derived from § VII of Ord. No. 95-18, adopted May 18, 1995.

Sec. 50-253. Standards for community redevelopment areas.

Notwithstanding any other provisions of sections 50-249 through 50-251 of the Code of Ordinances of the County of Volusia, the provisions of this section 50-253 shall apply to lighting in the core area of the community redevelopment area, whether such lighting is in new or existing developments. The term "core area of the community redevelopment area" means that area within the regulated boundaries of the City of Daytona Beach bounded by 50 feet north of the centerline of Butler Street on the north and 200 feet south of the centerline of Main Street on the south.

(1) It is the policy of the county to minimize artificial lighting illuminating the entire coastal beach of the county. To meet this intent, artificial lighting within the core area of the community redevelopment area shall be in compliance with the following provisions:

- a. Light fixtures shall be designed, positioned, shielded, or otherwise modified such that the source of light shall not be visible by a person who is in a standing position on the beach.
- b. Lights shall not directly or indirectly illuminate the beach during the sea turtle nesting season except, in order to insure public safety, spill-over and reflective lighting onto the beach will be permitted to the extent necessary to meet the minimum safe lighting standards for particular property uses as published in the *IES Lighting Handbook* by the Illuminating Engineering Society of North America.
- c. Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened such that they do not illuminate the beach except, in order to insure public safety, spill-over and reflective lighting onto the beach will be permitted to the extent necessary to meet the minimum safe lighting standards for particular property uses as published in the *IES Lighting Handbook* by the Illuminating Engineering Society of North America and the source of the light shall not be visible by a person who is in a standing position on the beach, or said lights shall be turned off during the sea turtle nesting season.
- d. Lights illuminating signs shall be shielded or screened such that they do not illuminate the beach and the source of the light shall not be visible by a person who is in a standing position on the beach, or said lights shall be turned off during the sea turtle nesting season.
- e. Interior lights that are shielded by tinted glass or by window tint that meets the standards for tinted glass shall be permitted, whether or not the source of such light or its reflective surface is visible from the beach.
- f. True red neon light (tubular lamps containing neon gas) or fiber optic light may be used for signage or decorative purposes, whether or not the source of such light is visible by a person standing on the beach.

(Ord. No. 99-12, § IX, 6-17-99)

Sec. 50-254. Relation to Endangered Species Act.

(a) This division is adopted for the purpose of implementing the provisions of section 202.4 of the Charter to provide protection for sea turtles as a matter of local policy. It is the intent of the county that this division be consistent with, and in furtherance of, the provisions of the Endangered Species Act, 16 U.S.C. §§ 1531 through 1544, and that it satisfy any obligation the

county may have under the act to prevent harm to sea turtles by its election to adopt this regulation. There are no definitive federal standards regarding artificial lighting. The county has used as a guide the state's model lighting ordinance; followed the nesting season dates established by the state; and sought the advice of appropriate federal officials and subject matter experts.

(b) As an alternative to compliance with the terms of this division, a local government or person may adhere to: (a) a lighting plan approved in writing by the United States Fish and Wildlife Service as likely to prevent harm to sea turtles; or (b) the conditions of a permit issued under federal law authorizing the taking of sea turtles for an otherwise lawful activity.

(c) Nothing in this division shall be construed to authorize or license any act prohibited by the Endangered Species Act. Artificial lighting not otherwise regulated by this division which may be in violation of the Endangered Species Act may be reported to the United States Department of Interior, Fish and Wildlife Service, for resolution and enforcement under federal law.

(Ord. No. 99-12, § X, 6-17-99)

Secs. 50-255--50-270. Reserved.

DIVISION 7. POTABLE WATER WELLFIELDS*

***Cross references:** Water wells, pumping facilities and irrigation systems, § 74-31 et seq.; potable water wellfield protection, app. A, § 1301 et seq.

State law references: Water resources, F.S. ch. 373.

Sec. 50-271. Definitions.

For the purpose of this division, the following words shall be defined as provided in section 50-71:

- Agricultural use.
- Community water system.
- EPA.
- Hazardous substances.
- Local government.
- Lot.
- Municipality.
- Nonresidential activity.
- Non-transient non-community water system.
- Person.
- Potable water.
- Potable water supply well.
- Primary containment.
- Primary wellfield protection zone.
- Product-tight.
- Residential activity.
- Secondary containment.

Secondary wellfield protection zone.
Spill.
Storage system.
Well.
Wellfield.
Wellfield protection zone permit.

(Ord. No. 88-15, § 700.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90; Ord. No. 00-35, § 2, 11-9-00)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 50-272. Penalty.

Violations of this division are punishable as provided in section 1-7.

Sec. 50-273. Purpose and intent.

The intent and purpose of this division is to safeguard the public health, safety and welfare of the people of the county, by providing for regulation of the storage, handling, use or production of hazardous substances within zones of protection surrounding potable water supply wellfields, thereby protecting the potable water supply from contamination.

(Ord. No. 88-15, § 701.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90)

Sec. 50-274. Scope.

The regulations set forth in this division shall apply to all areas surrounding a wellfield and the designated wellfield protection zones and other areas of the county as provided in this division.

(Ord. No. 88-15, § 702.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90)

Sec. 50-275. Exemptions.

The following activities or uses are exempt from the provisions of this division:

- (1) The transportation of any hazardous substance through either or both the primary or secondary wellfield protection zones, provided the transporting vehicle is in transit.
- (2) Agricultural uses, including mosquito control; except that said uses shall comply with F.S. ch. 487, the Florida Pesticide Law and the Florida Pesticide Application Act of 1974, and rule 5E-2.001 et seq. and rule 5E-9.001 et seq., Florida Administrative Code.
- (3) The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.
- (4) Fire, police and emergency medical services, emergency management center facilities and public utilities, except for landfills.
- (5) Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.
- (6) Office uses, except for the storage, handling or use of hazardous substances as provided for in applicable administrative codes.
- (7) Repairing or maintaining any existing facility or improvement on lands within the

primary or secondary wellfield protection zone.

(8) Storage tanks which are constructed and operated in accordance with the storage tanks regulations as set forth in chapter 62-761 et seq., Florida Administrative Code.

(9) Geotechnical borings.

(10) Residential activities.

(11) Public utility emergency generating facilities; except that permanently installed fuel storage facilities exempted under chapter 62-761 et seq., Florida Administrative Code, shall have secondary containment.

A local government may at its option delete, in whole or in part, any of the exemptions described in this section; but in no case shall the local government include any additional exemptions in its ordinance adopted pursuant to this division unless otherwise approved by the county council.

(Ord. No. 88-15, § 706.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90; Ord. No. 00-35, § 3, 11-9-00)

Sec. 50-276. Adoption of standards by municipalities.

The governing body of each affected municipality in the county, shall, no later than September 1, 2001, submit to the county council its ordinance containing the standards in compliance with this division. However, prior to this date, a municipality may elect to authorize the county to administer this division within said municipality. Thereafter, the county council shall review said ordinance for compliance with this division and, after said review, inform the municipality whether or not said municipal ordinance is in compliance with this division. If such ordinance of the municipality is not enacted or submitted on this date or is not in compliance with this division, then, notwithstanding any provision of Ordinance No. 88-3 (the land development code, appendix A to this Code) to the contrary, the county council may enforce its wellfield protection ordinance or Ordinance No. 88-3, as amended, in said municipality, or may enforce this provision as provided in section 50-75.

(Ord. No. 88-15, § 714.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90; Ord. No. 00-35, § 4, 11-9-00)

Sec. 50-277. Enforcement official; fees.

The local government shall designate an enforcement official, whose duties shall include but not be limited to enforcement, inspection, recordkeeping and administration, in its ordinance implementing this division. The local government may at its option adopt a fee schedule to provide for the funding of this program.

(Ord. No. 88-15, § 703.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90)

Sec. 50-278. Stop work orders.

A local government shall provide for the issuance of a stop work order for a violation of this division.

(Ord. No. 88-15, § 713.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90)

Sec. 50-279. Punishment of violations.

A local government shall provide for the punishment of violations of this division.

(Ord. No. 88-15, § 712.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90)

Sec. 50-280. Variances.

The local government may provide for variances to the provisions of this division.

(Ord. No. 88-15, § 707.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90)

Sec. 50-281. Establishment of wellfield protection zones.

The local government shall adopt primary and secondary wellfield protection zones. These zones shall show the geographic extent of said zones, which shall be delineated on maps as now or hereafter updated and supplemented and which are on file with the local government. Said maps may be adopted by reference by the local government. The local government may provide for rules of interpretation for buildings or lots lying wholly or partially in a particular wellfield protection zone.

(Ord. No. 88-15, § 704.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90)

Sec. 50-282. Restrictions within wellfield protection zones.

(a) *Primary wellfield protection zone.* For the primary wellfield protection zone, except as otherwise provided in this division, any new nonresidential use, handling, production or storage of hazardous substances shall be prohibited. However, any existing nonresidential use, handling, production or storage of hazardous substances shall be considered a nonconforming use, but shall apply for a wellfield protection permit as provided in this division.

(b) *Secondary wellfield protection zone.* For the secondary wellfield protection zone, except as otherwise provided in this division, any new or existing nonresidential use, handling, production or storage of hazardous substances shall apply for a wellfield protection permit as provided in this division. Said existing uses shall be considered nonconforming.

(Ord. No. 88-15, § 705.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90; Ord. No. 00-35, § 5, 11-9-00)

Sec. 50-283. Hazardous substances enumerated.

The hazardous substances regulated by this division shall consist of the substances listed in:

- (1) Chapter 38I-30.003 of the Florida Administrative Code (the Florida Substance List).
- (2) Title 40 of the Code of Federal Regulations part 261 (Identification and Listing of Hazardous Wastes).
- (3) Title 40 of the Code of Federal Regulations part 302.4 (table 302.4) (List of Hazardous Substances and Reportable Quantities).
- (4) Title 40 of the Code of Federal Regulations part 355, appendices A and B (List of Extremely Hazardous Substances and Their Threshold Planning Quantities).

A hazardous substance, as defined in this section, includes any solution, mixture or formulation containing such materials, and also includes any material which, due to its chemical or physical characteristics, as determined by the local government, poses a substantial threat to the life, health or safety of persons or property or to the environment.

(Ord. No. 88-15, § 708.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90; Ord. No. 00-35, § 6, 11-9-00)

Sec. 50-284. Wellfield protection zone permit.

(a) *Discharge of hazardous substances.* Except as otherwise provided in this section and in sections 50-282 and 50-275, no person shall construct, modify, install or replace a hazardous substance storage system or component thereof or be issued a permit within the primary or secondary potable wellfield protection zone or allow the discharge of a hazardous substance into the soils, groundwater or surface water within said zone. Underground vehicular fuel storage subject to chapter 62-761 et seq., Florida Administrative Code, is exempt from these permit requirements.

(b) *General permit requirements.*

(1) *Application.* Application for a wellfield protection permit, or renewal thereof, shall be made and completed in the manner and on the forms prescribed by the local government. The application shall be completed with all requested information and shall be signed by the owner or operator, as applicable. The completed application shall be submitted to the local government, together with the appropriate permit fee as established by the local government.

(2) *Issuance.* The local government shall issue or renew said permit upon the applicant's demonstration that all containment standards required by this division and other applicable regulations have been met and upon receipt of the appropriate fee.

(3) *Contents; effect.* Said permit, when issued, shall be in the name of the owner or operator, as applicable, which name may be that of an individual, firm, association, joint venture, corporation, partnership, governmental entity or other legal entity. A permit shall specify the regulated facility covered by the permit. Said permit may cover one or more hazardous substance storage systems located at the same facility. Said permit shall provide conditions necessary to ensure that the provisions of this article are met. Commencement of construction of a regulated facility under a wellfield protection permit shall be deemed acceptance of all conditions specified in the permit.

(c) *Additional information and documentation.* When a wellfield protection permit is required, the following information and accompanying documentation as may be applicable shall be submitted to the local government, together with the completed application:

(1) Construction plans and specifications for the hazardous substance storage system shall be submitted, including but not limited to details of tanks, conveyance and pumping systems, secondary containment, leak detection, overfill protection and access. At the option of the local government, a professional engineer licensed by the state may be required to certify compliance with this division.

(2) Prior to any person causing, allowing, permitting or suffering the placement of any hazardous substance in a storage system covered by a wellfield protection permit, pursuant to this division, the owner or operator shall demonstrate that the system has been constructed in substantial conformity with the permit.

(3) Upon closure of a hazardous substance storage system, the facility owner or operator shall notify the local government of intention to close the storage system.

(d) *Denial, suspension or revocation.* The local government may deny, suspend or revoke a permit for failure to comply with this division and/or the conditions of any permit issued pursuant to this division. The local government may revoke any permit issued pursuant to this division on a finding that the permit holder or his agent:

(1) Knowingly submitted false or inaccurate information in the application or operational reports.

(2) Has violated the provisions of this division or permit conditions.

(3) Has refused lawful inspections as required by this division.

(Ord. No. 88-15, § 709.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90; Ord. No. 00-35, § 7, 11-9-00)

Sec. 50-285. Containment standards for hazardous substances.

(a) *Permit required.* Except as provided in sections 50-282 and 50-275, no person shall construct or install any storage system for hazardous substances within the primary or secondary wellfield protection zone until an approved permit has been issued as provided in this division.

(b) *Monitoring.* Except as provided in sections 50-282 and 50-275, all storage systems intended for the storage of hazardous substances shall be designed with the capability of detecting that the hazardous substance stored in the primary containment has entered the secondary containment. Visual inspection of the primary containment is the preferred method; however, other means of monitoring may be required by the local government.

(c) *Containment requirements.* Primary and secondary levels of containment shall be required for all storage systems intended for the storage of hazardous substances, except as provided in sections 50-282 and 50-275.

(1) *Primary containment.* All primary containment shall be product-tight.

(2) *Secondary containment.*

a. All secondary containment shall be constructed of materials of sufficient thickness, density and composition so as not to be structurally weakened as a result of contact with the discharge of hazardous substances. Leakproof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The secondary containment shall be of adequate size to handle 110 percent of the volume of the largest container in order to contain all spills, leaks, overflows and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any hazardous substances loss to the external environment. Secondary containment systems shall be sheltered so that the intrusion of precipitation is inhibited. These requirements shall apply to all areas of use, production and handling, to all storage areas, and to aboveground and underground storage areas.

b. Vacuum suction devices, absorbent scavenger materials or other devices approved by the local government shall be present on the site or available within a time set by the local government. Devices or materials shall be available in sufficient magnitude so as to control and collect the total quantity of hazardous substances. To the degree feasible, emergency containers shall be present and of such capacity as to hold the total quantity of hazardous substances plus absorbent material.

c. Procedures shall be established for periodic in-house inspection and maintenance of containment and emergency equipment. Such procedures shall be in writing. A regular checklist and schedule of maintenance shall be established, and a log shall be kept of inspections and maintenance. Such logs and records shall be kept on the site for inspection by the local government.

(d) *Out-of-service storage systems.*

(1) Storage systems which are temporarily out of service, and are intended to be

returned to use, shall continue to be monitored and inspected.

(2) Any storage system which is not being monitored and inspected in accordance with this division shall be closed or removed in a manner approved by the local government.

(3) Whenever an abandoned storage system is located, a plan for the closing or removing or upgrading and permitting of such storage system shall be filed at a reasonable time as determined by the local government.

(e) *Maintenance, repair or replacement.*

(1) Any substantial modification or repair of a storage system, other than minor repairs or emergency repairs, shall be in accordance with plans to be submitted to the local government and approved prior to the initiation of such work.

(2) A facility owner or operator may make emergency repairs to a storage system in advance of seeking an approval whenever an immediate repair is required to prevent or contain an unauthorized discharge or to protect the integrity of the containment.

(3) Replacement of any existing storage system for hazardous substances must be in accordance with the new installation standards.

(Ord. No. 88-15, § 710.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90)

Sec. 50-286. Hazardous substance inspection and cleanup program.

The county shall continue to administer a hazardous substance inspection and cleanup program for both the incorporated and unincorporated areas of the county. Said inspection program shall ensure compliance with 40 CFR 260.00 through 265.00. This regulatory program will be in addition to the requirements of this division.

(Ord. No. 88-15, § 711.00, 5-19-88; Ord. No. 90-9, § II, 3-1-90)

Secs. 50-287--50-310. Reserved.

DIVISION 8. WATER CONSERVATION*

*Cross references: Utilities, ch. 122.

Sec. 50-311. Definitions.

For the purpose of this division, the following words shall be defined as provided in section 50-71:

- Agricultural use.
- Automatic system.
- District.
- Even numbered address.
- Heating and air conditioning use.
- Landscape irrigation use.
- Local government.

Low-volume hand watering.
Low-volume irrigation.
Low-volume pressure cleaning.
Manual system.
Mobile equipment.
Municipality.
Odd numbered address.
Reclaimed water.
Reuse.
User.
Water conservation.
Water shortage.
Water shortage plan.

(Ord. No. 88-15, 5-19-88; Ord. No. 90-7, § II(800.00), 3-22-90; Ord. No. 00-34, § 2, 10-5-00)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 50-312. Penalty.

Any person found guilty of a violation of any provisions of this division, or any lawful order of the county council, or enforcement official or his duly authorized representative, shall be punished in accordance with section 1-7.

(Ord. No. 88-15, 5-19-88; Ord. No. 90-7, § II(808.00), 3-22-90; Ord. No. 91-25, §§ III, VII, 8-15-91)

Sec. 50-313. Variances.

The county council, under this section, provides for variances to the provisions of this division.

(1) When the county council finds that compliance with any of the requirements of this division would result in undue hardship for a specific user, a variance from any one or more such requirements may be granted by the county council provided the variance is the minimum necessary to alleviate such undue hardship for the user and to the extent such variance can be granted without impairing the intent and purpose of this division.

(2) All users requesting a variance from the provisions of this division shall file a petition for variance but must conform to the greatest possible extent to the water use restrictions of this division until such variance is granted.

(3) A petition for variance shall be in writing and contain the following:

- a. The petitioner's name and address.
- b. The specific provision from which the petitioner is requesting a variance.
- c. A detailed statement of the facts which the petitioner believes demonstrate that the request qualifies for variance under subsection (4) of this section.
- d. A description of the variance desired.
- e. The period of time for which the variance is sought, including the reasons and facts in support thereof.
- f. The damage or harm resulting or which may result to the petitioner from compliance with the provision.
- g. The steps the petitioner is taking to meet the provisions from which the variance is sought and when compliance could be achieved.

h. Other relevant information the petitioner believes supports his petition for variance.

(4) No petition for variance shall be approved unless the petitioner affirmatively demonstrates that one or more of the following circumstances exists:

- a. The variance is essential to protect health or safety;
- b. Compliance with the provision from which a variance is sought will require measures which, because of their extent or cost, cannot be accomplished;
- c. Compliance with the provision from which a variance is sought will result in a substantial economic, social or health burden on the petitioner or those served by the petitioner; or
- d. Alternative restrictions which achieve the same level of demand reduction as the provision are available and reflect the intent and purpose of this division.

(Ord. No. 88-15, 5-19-88; Ord. No. 90-7, § II (806.00), 3-22-90; Ord. No. 91-25, §§ III, VI, 8-15-91; Ord. No. 00-34, § 3, 10-5-00)

Sec. 50-314. Declaration of water shortage.

(a) The county acknowledges that the groundwater resource available to its citizens is a sole-source aquifer and is not connected to other groundwater resources. The county deems it necessary to be able to determine water shortages based on the data available in the county independent of data available elsewhere in the St. Johns River Water Management District.

(b) The county council shall declare a water shortage or a water shortage emergency based on public concern and technical information, such as, but not limited to, groundwater levels, spring flows and rainfall, and shall establish a specific level of water conservation and use corresponding to a level as set forth in section 50-315, and may consider the level of water conservation and use recommended by the Volusia Water Alliance.

(c) In the event the St. Johns River Water Management District declares a water shortage and implements its water shortage plan, 40C-21, Florida Administrative Code, the water shortage plan and all elements of said plan become effective and take precedence over the provisions of this division, provided that the plan provides for a more restrictive level of water conservation than the level in effect. At such time as the declared St. Johns River Water Management District water shortage expires, then all provisions of this division become effective and enforceable.

(Ord. No. 88-15, 5-19-88; Ord. No. 90-7, § II(801.00), 3-22-90; Ord. No. 91-25, § I, 8-15-91; Ord. No. 97-12, § I, 5-15-97)

Sec. 50-315. Levels of water conservation and use.

The county, in order to provide the necessary levels of yearround water conservation and provide for the most logical transition to a declared water shortage, water shortage emergency or the St. Johns River Management District water shortage plan, shall establish the following levels of water conservation and use:

(a) *Base water conservation level.* This level is as follows:

- (1) The use of water for landscape irrigation is allowed only during the following times: Three days a week from 4:00 a.m.--8:00 a.m. and 4:00 p.m.--8:00 p.m. (5:00 p.m.--9:00 p.m. during daylight savings time) for manual irrigation systems and 4:00 a.m.--8:00 a.m. only for automatic irrigation systems. Even numbered

addresses and residences without address numbers may water at these times on Tuesdays, Thursdays and Sundays, odd numbered addresses on Mondays, Wednesdays and Saturdays. On Fridays, no watering is permitted.

a. The use of water for irrigation from a reclaimed water system is allowed anytime provided appropriate signs are placed on the property to inform the general public and district enforcement personnel of such use. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented by water from another source during peak demand periods. Additional restrictions may be placed on reclaimed water by local governments as long as these restrictions are more stringent than those of the district.

b. Irrigation of new landscape plantings is allowed any day, except between 10:00 a.m. and 4:00 p.m., for one 30-day period, provided irrigation is limited to the amount necessary for plant establishment.

c. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer, or best management practices, is allowed anytime within 24 hours of application.

d. Irrigation systems may be operated anytime for maintenance and repair purposes, not to exceed ten minutes per hour per zone.

(2) Excessive use of water for landscape irrigation or overwatering of landscaping is discouraged. Overspray of irrigation water onto impervious surfaces is prohibited.

(3) Mobile equipment washing shall utilize an automatic shutoff/self-canceling spray nozzle. Mobile equipment washing shall be on pervious surfaces whenever feasible or at a commercial water recycling automobile wash.

(4) The washing of sidewalks, walkways, driveways, parking lots, tennis courts and all other impervious areas shall utilize an automatic shutoff/self-canceling spray nozzle or low volume pressure cleaning. Excessive use of water for washing of impervious areas is discouraged. Runoff from impervious surface washing shall be directed as much as possible toward pervious areas.

(5) Filling or refilling of swimming pools, except as necessary during construction process, repairs, or following any voluntary cessation of use of the pool to prevent the leakage of water, and except as necessary to raise the level of water to allow the pool's skimmer to properly function, is prohibited. The continuous refilling of swimming pools while a leak is occurring is hereby prohibited.

(b) *Level II.* Level II shortage corresponds to the St. Johns River Water Management District's Phase II Severe Water Shortage Plan and all provisions therein as set forth in 40C-21.631, F.A.C. In addition, the use of water for landscape irrigation purposes by manual irrigation systems is allowed during the evening from 4:00 p.m.--8:00 p.m. (5:00 p.m.--9:00 p.m. during daylight-savings time) on the specific days and street addresses permitted by the St. Johns River Water Management District in the above-described Phase II Severe Water Shortage Plan requirements. In the event the said District declares a Phase II Severe Water Shortage Plan, said District requirements shall supersede this provision.

(c) *Level III.* Level III shortage corresponds to the St. Johns River Water Management District's Phase III Extreme Water Shortage Plan and all provisions therein as set forth in 40C-21.641, F.A.C. In addition, the use of water for landscape irrigation purposes by

manual irrigation systems is allowed during the evening from 4:00 p.m.--7:00 p.m. (5:00 p.m.--8:00 p.m. during daylight-savings time) on the specific days and street addresses permitted by the St. Johns River Water Management District in the above-described Phase III Extreme Water Shortage Plan requirements. In the event the said District declares a Phase III Extreme Water Shortage Plan, said District requirements shall supersede this provision.

(d) *Level IV.* Level IV Shortage corresponds to the St. Johns River Water Management District's Phase IV Critical Water Shortage Plan and all provisions therein as set forth in 40C-21.651, F.A.C. In addition, the use of water for landscape irrigation purposes by manual irrigation systems is allowed during the evening from 6:00 p.m.--7:00 p.m. on the specific days and street addresses permitted by the St. Johns River Water Management District in the above-described Phase IV Critical Water Shortage Plan requirements. In the event the said District declares a Phase IV Critical Water Shortage Plan, said District requirements shall supersede this provision.

(Ord. No. 88-15, 5-19-88; Ord. No. 90-7, § II(802.00), 3-22-90; Ord. No. 91-25, § II, 8-15-91; Ord. No. 00-34, § 4, 10-5-00)

Sec. 50-316. General restrictions on water use.

(a) *Excessive or unnecessary water use.* Excessive, wasteful and unnecessary water use is hereby prohibited. Excessive, wasteful and unnecessary water use includes but is not limited to:

- (1) Allowing water to be dispersed without any practical purpose to the water user, regardless of the type of water use;
- (2) Allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use; and
- (3) Allowing water to be dispersed to accomplish a purpose for which water use is unnecessary or which can be readily accomplished through alternative methods of significantly less water use.

(b) *Discharge of groundwater used in heating or air conditioning systems.* All groundwater utilized in water-to-air heating and air conditioning systems must be directed to landscape irrigation systems, groundwater injection or exfiltration systems. Off-site discharge from heating and air conditioning systems is prohibited.

(c) All automatic landscape irrigation systems shall be equipped with rain sensor devices, within 18 months from the effective date of this division.

(Ord. No. 88-15, 5-19-88; Ord. No. 90-7, § II(803.00), 3-22-90; Ord. No. 91-25, §§ III, IV, 8-15-91; Ord. No. 00-34, § 5, 10-5-00)

Sec. 50-317. Reference to certain district rules.

In the event the St. Johns River Water Management District adopts a Phase I Moderate Water Shortage Plan as set forth in 40C-21.621, F.A.C., it shall prevail over any less stringent restriction in effect under this division.

(Ord. No. 00-34, § 6, 10-5-00)

Sec. 50-318. Exemptions.

(a) Exemption stickers shall be applied for and issued by the (enter member name here) for water-to-air heating and air-conditioning systems and reuse or reclaimed water systems and shall be displayed in a conspicuous location easily viewed by enforcement personnel. The exemption sticker shall be of design; color and placement location designated by the VWA and such exemption sticker shall be applicable uniformly throughout the county.

(b) Agricultural uses are exempt from the provisions of this ordinance, as long as they follow the agricultural water conservation requirements of the district.

(c) Water used for construction purposes shall be exempt from the provisions of this division.

(d) Watering of clay or clay type recreational courts is exempt from the base water conservation and use provisions.

(e) Low-volume hand watering and other forms of low-volume irrigation are permitted anytime, but avoidance of hours of high evaporation is encouraged.

(Ord. No. 00-34, § 7, 10-5-00)

Sec. 50-319. Violation.

Any person alleged to have violated this division shall have the option upon receipt of a first notice of violation to attend a water conservation school operated by the Volusian Water Alliance in lieu of the imposition of any penalty as provided in section 1-7 of this Code. Said option shall be exercised in writing by said alleged violator no later than the time of the imposition of any penalty as provided in section 1-7 of this Code. Said option may only be exercised once by the alleged violator.

(Ord. No. 2000-34, § 10, 10-5-00)

Secs. 50-320--50-340. Reserved.

DIVISION 9. BEACHES AND DUNES*

***Cross references:** Beaches, ch. 20; environmental standards for beach and dune protection, app. A, § 1500 et seq.

State law references: Beach and shore preservation, F.S. ch. 161.

Sec. 50-341. Purpose and intent.

It is the purpose of this division to provide certain minimum standards that promote restoration and preservation of the vital beach and dune system along the Atlantic coast of the county. The intent is to regulate coastal construction and activities that affect the beach and dune system and that may degrade its natural processes and functions. All such standards shall meet or be more restrictive than the state department of environmental protection standards.

(Ord. No. 88-15, § 900, 5-19-88; Ord. No. 91-42, § II, 12-5-91; Ord. No. 2004-17, § II, 10-21-04)

Sec. 50-342. Penalty.

Violations of this division are punishable as provided in section 1-7.

Sec. 50-343. Exemptions.

Activities that are exempt from this division include:

- (a) Dune restoration projects that include sand placement and revegetation with native coastal vegetation dune plants on property or lots abutting the Atlantic Ocean.
- (b) Installing end returns on existing seawalls, bulkheads or revetments designed and constructed consistent with the standards contained in the most current version of the U.S. Army Corps of Engineers Coastal Engineering Manual, which depicts proper techniques for minimizing wave current edge effects.
- (c) Dune planting, sand depositing or sand fencing, which has been approved by department of environmental protection, or other activities that serve to promote the natural function of the beach environment.
- (d) Mechanical beach cleaning, provided that it conforms to the standards contained in division 6 of this chapter, pertaining to sea turtle protection, if said activity is permitted by the department of environmental protection, and does not enter the conservation zone as defined in section 50-347 of this division or natural areas.

(Ord. No. 88-15, § 907, 5-19-88; Ord. No. 91-42, § II, 12-5-91; Ord. No. 2004-17, § II, 10-21-04)

Sec. 50-344. Adoption of standards by municipalities.

The governing body of each affected municipality in the county shall, no later than 120 days after any amendment of this article, submit to the county council an ordinance established in compliance with this division. Prior to this date, however, any municipality may elect to authorize the county to administer this division within that municipality. The county council shall review each submitted ordinance for compliance with this division. Each municipality shall be informed of the acceptability of its ordinance or of the need for revision. If a municipal ordinance is not enacted or submitted by the required date, or if the submittal is not in compliance with this division, the county council may enforce the county beach and dune ordinance in noncomplying municipalities as provided in section 50-75.

(Ord. No. 88-15, § 910, 5-19-88; Ord. No. 91-42, § II, 12-5-91; Ord. No. 2004-17, § II, 10-21-04)

Sec. 50-345. Reserved.

Editor's note: Ord. No. 2004-17, § II, adopted Oct. 21, 2004, deleted § 50-345, which pertained to administrative procedures for permit applications, variances and appeals, and was derived from Ord. No. 88-15, § 909, adopted May 19, 1988, and Ord. No. 91-42, § II, adopted Dec. 5, 1991.

Sec. 50-346. Enforcement.

- (a) Volusia County Environmental Management Division shall administer the provisions of this division countywide unless a municipality adopts a separate ordinance.
- (b) Each municipality that adopts a separate ordinance shall provide for the enforcement of the provisions set forth in this division and all conditions attached to coastal construction permitting activity. Such enforcement mechanisms shall include but are not limited to stop work orders,

injunctions or imposition of penalties, fines and liens as provided by law.

(Ord. No. 88-15, § 908, 5-19-88; Ord. No. 91-42, § II, 12-5-91; Ord. No. 2004-17, § II, 10-21-04)

Sec. 50-347. Conservation zone.

(a) *Established; purpose.* A protection zone shall be established along the entire Atlantic Ocean beach of the county. The purpose of this zone is to encourage the natural function of the beach.

(b) *Location.* This zone shall be established 30 feet seaward from the seaward toe of the most seaward dune, dune scarp or manmade structure, or half the distance to mean high-water level, whichever is the lesser in transitional areas and 15 feet in urban areas.

(c) *Management plan.* A conservation zone management plan shall be established by the county in commission for the purpose of standardization along the beach area.

(1) A program regulating all vehicle activities within the conservation zone, except at vehicle accessways, shall be implemented.

(2) Preservation of existing natural vegetation, which must remain undisturbed and protected, includes but is not limited to a table of plants that is to be maintained and updated by Volusia County Environmental Management.

(3) Additional natural vegetation may be planted and maintained for those areas where necessary and/or beneficial.

(4) The installation of fencing or other structures as approved by state and county agencies is encouraged to assist in sand catching.

(5) Artificial dune construction is encouraged.

(6) All permitted armoring projects must be fronted or covered by artificial dunes with vegetation. Measures shall be established to ensure longterm maintenance [is] created.

(Ord. No. 88-15, § 901, 5-19-88; Ord. No. 91-42, § II, 12-5-91; Ord. No. 2004-17, § II, 10-21-04)

Sec. 50-348. Access standards.

(a) Beach and dune walkovers may be constructed for the purpose of maintaining or enhancing pedestrian access to the beach and to minimize habitat impact where there is currently no walkover. A valid permit is required prior to the start of construction of beach and dune walkovers from the appropriate state and local agencies.

(b) Walkovers are required at all new public access points and adjacent to all new multifamily dwelling structures, hotel/motel complexes and other commercial establishments which allow ingress and egress to the beach, and lack access to existing walkover structures or ramps.

(c) All applicable permits from other regulatory agencies, such as the state department of environmental protection, shall be received before issuance of a county or local government building permit for the walkover.

(d) Walkovers shall be constructed in a manner that minimizes short-term disturbances to the dune system and existing vegetation. The walkover shall be posted with signs containing information including the laws concerning the prohibition of disturbing sea turtle nests, dates indicating sea turtle nesting season (May 1--October 31), applicable lighting regulations effective during the nesting season and prohibitions against disturbing state protected vegetation and dunes.

(e) Replacement of any vegetation destroyed during construction of the walkover with similar plants suitable for beach/dune stabilization is required. Replanting must be accomplished with native coastal vegetation suitable for beach and dune stabilization in accordance with the list of acceptable plants referenced in section 50-347(c)(2) of this division.

(f) Walkovers constructed over vegetated dunes or over vegetated beach berms shall be elevated above the vegetation and dune system.

(g) All walkovers shall be designed to protect the conservation zone, natural areas, and beach habitat from construction impacts and long-term pedestrian impacts.

(h) All new or replaced walkovers shall be constructed in accordance with the state department of environmental protection regulations, which mandates the preservation and restoration of the associated dune system.

(Ord. No. 88-15, § 902, 5-19-88; Ord. No. 91-42, § II, 12-5-91; Ord. No. 01-03, § 1, 1-18-01; Ord. No. 2004-17, § II, 10-21-04)

Sec. 50-349. Armoring standards.

(a) Regulations for armoring shall conform to state department of environmental protection's coastal armoring policy in addition to the following criteria:

(1) All coastal armoring permits will be reviewed by Volusia County Environmental Management Division for consistency with the Volusia County Sea Turtle HCP/ITP and this division.

(2) All new and reconstruction of armoring projects must be buried with an artificial dune, at least four feet above the existing grade, at a slope no greater than three to one, and planted with the appropriate native coastal vegetation.

(3) All new and reconstructed dune systems shall be maintained forever in perpetuity by the property owner. Additional permits from state department of environmental protection may be required.

(b) Seawall construction in the county shall be consistent with state requirements and shall be of a low profile design. In addition, all new seawalls shall be designed and constructed to minimize adverse impacts to adjacent properties.

(c) Each soft armoring project shall be constructed with habitat compatible materials, as determined by the state department of environmental protection, and will be required in conjunction with the reconstruction or replacement of any seawalls within the county.

(d) Dune reconstruction projects that include burying seawalls shall be maintained by the property owner to emulate natural dune systems and to prevent seawalls from being exposed.

(Ord. No. 88-15, § 903, 5-19-88; Ord. No. 91-42, § II, 12-5-91; Ord. No. 01-35, § 1, 12-13-01; Ord. No. 2004-17, § II, 10-21-04)

Sec. 50-350. Armoring permit.

(a) All new and reconstructed armoring projects and emergency repairs must be permitted through the appropriate state and local agencies. A reconstruction permit will be necessary when the armoring structure is damaged in excess of 75 percent of its current market value, and any reconstruction shall comply with this division. Coastal armoring may also be authorized in an emergency situation based upon a determination made by the state department of environmental protection when the project complies with the provisions of F.S. ch. 161 and Rule

62B-33, Florida Administrative Code.

(b) The local government may adopt or supplement permit requirements or conditions issued from other federal, state or regional permitting agencies provided they are more stringent than this division.

(Ord. No. 88-15, § 904, 5-19-88; Ord. No. 91-42, § II, 12-5-91; Ord. No. 2004-17, § II, 10-21-04)

Sec. 50-351. Removal of sand from beach area.

(a) Any beach-compatible sand either dredged from Ponce DeLeon Inlet or extracted from construction sites on the Volusia County Barrier Island shall not be removed from the barrier island. Provided appropriate locations are available, excess sand from construction sites adjacent to the beach shall be used solely for dune and beach reconstruction with a valid state department of environmental protection permit.

(b) The county shall determine the compatibility of the sand, including the acceptable degree of debris, based on department of environmental protection standards.

(c) Compatible sand which is to be used for dune and beach reconstruction or renourishment may be stockpiled at the discretion and location designated by the county, and must be utilized on the beach.

(Ord. No. 88-15, § 905, 5-19-88; Ord. No. 91-42, § II, 12-5-91; Ord. No. 2004-17, § II, 10-21-04)

Sec. 50-352. Disposable containers.

Disposable containers made of plastic or styrofoam, including but not limited to cups, tops, straws or food containers, are prohibited on the beach.

(Ord. No. 88-15, § 906, 5-19-88; Ord. No. 91-42, § II, 12-5-91)

Secs. 50-353--50-370. Reserved.

DIVISION 10. WATER WISE LANDSCAPE IRRIGATION*

***State law references:** Conservation of water, Xeriscape, F.S. § 166.048; local Xeriscape ordinances, F.S. § 373.185.

Sec. 50-370. Purpose and intent.

(a) The purpose and intent of this division is to promote water wise practices by establishing standards for the development, installation, and maintenance of landscape irrigation systems without inhibiting creative landscape design, construction and management.

(b) The water wise irrigation standards set forth herein are designed to conserve local water supplies and minimize adverse effects on Florida's natural systems.

(c) The quality of Florida's surface and ground water is adversely affected by irrigation runoff and leachate. Improper landscape irrigation design, construction, and management contributes

to nonpoint source pollution that affects ground and surface water quality.

(d) This division establishes water wise landscape irrigation standards and encourages the use of Florida Friendly landscaping practices. Water wise landscape irrigation standards promote efficient water use, minimize polluted runoff, and utilize water conservation components and equipment. The Florida Friendly landscape concept is based on the principles of the Florida Yards and Neighborhoods (FYN) and Environmental Landscape Management (ELM) programs operated by the University of Florida Cooperative Extension Service, the Xeriscape programs of the state's water management districts, and practices identified in the *Green Industries Best Management Practices for Protection of Water Resources in Florida (2002)* as amended.

(Ord. No. 2004-05, § II, 5-20-04)

Sec. 50-371. Authority and applicability.

(a) This division is adopted by the County of Volusia under its police power and charter authority to adopt minimum standards for environmental protection.

(b) These provisions shall be the minimum standards for irrigation systems applicable to landscape irrigation systems within the unincorporated and incorporated areas of the county.

(c) These provisions apply to new irrigation system installations on individual parcels and within entire subdivisions, head replacement on existing irrigation systems, expansion of irrigation systems and substantial irrigation system modification.

(Ord. No. 2004-05, § II, 5-20-04)

Sec. 50-372. Exemptions.

The following are exempted from the provisions of this division:

- (1) Hand watering and portable sprinklers;
- (2) Bona fide agricultural use;
- (3) Golf course play areas and specialized athletic fields, provided however, the remainder of any such property shall comply with the requirements of this division.

(Ord. No. 2004-05, § II, 5-20-04)

Sec. 50-373. Requirements for efficient irrigation.

(a) *System design.* Irrigation systems shall be designed, constructed, and permitted to include:

- (1) Automatic irrigation controllers, when utilized, shall contain a functional rain sensor device, capable of being set to one minute run times, and battery backup capability to retain programming in the event of a power failure;
- (2) A rain sensor placed on a stationary structure, free and clear of any overhead obstructions and above the height of the sprinkler coverage;
- (3) Equipment with check valves used in low-lying areas to prevent low head drainage;
- (4) Backflow prevention methods and other provisions prescribed in section 74-42;
- (5) Irrigation design with the appropriate uniformity for the type of plant being grown and for the type of soil;

- (6) Irrigation system equipment installed as designed;
- (7) Irrigation zones divided according to: available flow rate, vegetated groupings (i.e., turf, shrubs, native plants, etc.), sprinkler types (i.e., sprinklers with matching precipitation rates), and soil characteristics;
- (8) Spray heads and rotors not mixed in same zone;
- (9) Distribution equipment in a given zone having matched precipitation rates;
- (10) Application rates that avoid runoff and permit uniform water infiltration into the soil, considering land slope, soil hydraulic properties, vegetative ground cover, and prevailing winds;
- (11) A minimum separation of four inches between distribution equipment and pavement;
- (12) A minimum separation of 12 inches between distribution equipment and buildings and other vertical structures;
- (13) No direct spray onto walkways, buildings, roadways, and drives;
- (14) Lawn spray patterns providing head to head coverage;
- (15) Water conveyance systems with a flow velocity of five feet per second or less;
- (16) Pipelines designed to provide the system with the appropriate pressure required for maximum irrigation uniformity;
- (17) Pressure regulating heads; and
- (18) A maintenance checklist provided to the property owner by the irrigation contractor accompanied by a recommended maintenance schedule, proper irrigation system settings according to season, recommendations for checking rain sensor device, filter cleaning recommendations and information on the current water restrictions.

(b) *System Layout and Native Vegetation Retention.* Irrigation systems shall comply with the following requirements:

- (1) A high volume irrigation area shall not exceed 50 percent of the landscaped area. Low or medium volume irrigation areas may be utilized in lieu of any high volume irrigation area.
- (2) A medium volume irrigation area shall not exceed 25 percent of the landscaped area. However, the landscaped area may contain up to 75 percent medium volume irrigation area, if no high volume irrigation area is utilized on site.
- (3) A low volume irrigation area may be utilized for an entire landscaped area with the exception of native vegetation areas regulated by section 50-373(b)(4).
- (4) In the alternative to section 50-373(b)(1), (2), and (3) above, if 25 percent of the pre-existing native vegetation is retained on site, the remaining 75 percent of the landscaped area may be a high volume irrigation area. For all pre-existing native vegetation retained on a parcel:
 - a. No supplemental water shall be applied to the native vegetation area;
 - b. Only hand pruning of native vegetation is allowed;
 - c. Mechanical mowing or clearing is prohibited.

(c) *System operation flows.* Systems shall dispense no more than:

- (1) One inch of water per week for high volume irrigation areas;

- (2) One-half inch of water per week for medium volume irrigation areas;
 - (3) One-quarter inch of water per week for low volume irrigation areas.
- (d) *Irrigation system operation and maintenance.*
- (1) Irrigation systems shall be operated properly and in compliance with section 50-315 and this section.
 - (2) All automatic controllers shall be programmed to the appropriate level of water conservation set forth in section 50-315.
 - (3) Irrigation systems shall be maintained to meet the requirements of this section.

(Ord. No. 2004-05, § II, 5-20-04)

Sec. 50-374. Irrigation system design guidelines.

The director shall create educational and design guidelines including best management practices, Florida Friendly landscape techniques and water wise principles.

(Ord. No. 2004-05, § II, 5-20-04)

Sec. 50-375. Municipal enforcement.

- (a) The Volusia County Health Department shall administer the provisions of this division countywide unless a municipality has entered into an interlocal agreement with the county transferring administration to the municipality.
- (b) Nothing herein prevents a municipality from enacting and enforcing additional regulations that are not inconsistent with this division.

(Ord. No. 2004-05, § II, 5-20-04)

Sec. 50-376. Permitting and fees.

(a) *Permitting process.*

- (1) *Permit required.* Prior to the installation, expansion, or substantial modification of an irrigation system, an owner/contractor or irrigation contractor shall obtain a valid permit from the permitting authority. A licensed contractor may obtain the permit if it is part of a building permit.
- (2) *Permit approval.*
 - a. Action shall be taken on any complete permit application within 30 days of complete submittal.
 - b. Any permit issued may specify terms and conditions of approval.
 - c. A valid permit must be properly displayed at the job site prior to commencement of work.
 - d. A permit is valid for a period of six months from date of its issuance. The permitting authority may at its discretion extend this time limit for any reasonable period of time not to exceed an additional six months.
- (3) *Permit denial.* The permitting authority shall notify an applicant of permit denial.

Notice shall state the grounds for rejection.

(4) *Suspension or revocation of permit.* A permit may be suspended or revoked by the permitting authority if any irrigation system installation is found in violation of the permit, Florida law, Florida Administrative Code, this division, any applicable municipal ordinance or any of the following:

- a. Material misstatement or misrepresentation in the application for a permit;
- b. Failure to comply with the conditions set forth in the permit;
- c. Disregard or violation of this article or any rule or regulation promulgated by the council;
- d. Aiding and abetting another person in the violation of this article or any rule or regulation promulgated by the council pursuant hereto;
- e. Failure to pay the required permit fee; and/or
- f. Construction or installation of an irrigation system that would have deleterious effects on the quality of ground water supplies in the county.

(5) *Self-certification* .

- a. Contractors shall be accountable for proper installation and compliance through self-certification. The permitting authority shall conduct an adequate number of random inspections to ensure compliance of each contractor.
- b. An irrigation contractor or owner/contractor must submit a completed and endorsed checklist on a form provided by the permitting authority, accompanied by an as-built sketch of the irrigation system, to the permitting authority and the property owner within 30 days of irrigation system completion, permit expiration, or with any request for final inspection.
- c. Irrigation contractor certificates may be refused, suspended or revoked for any material misrepresentation of information in the as-built sketch.

(6) *Certificate of occupancy.* No certificate of occupancy shall be issued until:

- a. A complete, self-certification checklist and as-built sketch have been submitted and accepted by the permitting authority; and
- b. The permitting authority has conducted any required final inspection.

(b) *Fees* . A fee schedule may be adopted to fund this program.

(c) *Late permit fees or charges.* If a permit fee is not paid within 30 days after notification, future permits will not be issued until all fees are paid.

(Ord. No. 2004-05, § II, 5-20-04)

Sec. 50-377. Penalty.

Violations of this division may result in:

- (1) Suspension or revocation of irrigation system permits pursuant to section 74-39(i);
- (2) Refusal, suspension or revocation of irrigation contractor certificates of competency pursuant to section 74-36(j);
- (3) Refusal, suspension or revocation of irrigation contractor certificates of competency for a material misrepresentation of information on an as-built sketch; and

(4) The imposition of penalties pursuant to section 1-7.

(Ord. No. 2004-05, § II, 5-20-04)

Sec. 50-378. Appeals.

Denial, suspension, or revocation of irrigation system permits by the Volusia County Health Department may be appealed to the development review committee (DRC) pursuant to Appendix A, section 101.02(d) of the Volusia County Land Development Code. DRC decision is final administrative action.

(Ord. No. 2004-05, § II, 5-20-04)

Secs. 50-379-- 50-390. Reserved.