



CITY COUNCIL WORKSHOP

April 17, 2024 at 5:30 PM

City Council Chambers, 16 Colomba Rd.

DeBary, Florida 32713

AGENDA

CALL TO ORDER

ROLL CALL

PRESENTATIONS

1. Staff is presenting an overview to the City Council on Chapter 9 of the proposed Land Development Code (LDC).

PUBLIC PARTICIPATION

COUNCIL DISCUSSION

ADJOURN

If any person decides to appeal any decision made by the City Council with respect to any matter considered at this meeting or hearing he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at least three (3) working days in advance of the meeting date and time at (386) 668-2040.



City Council Meeting City of DeBary AGENDA ITEM

Subject: Land Development Code, Chapter 9	Attachments: () Ordinance () Resolution () Supporting Documents/ Contracts (X) Other
From: Steven E. Bapp, AICP Growth Management Director	
Meeting Hearing Date April 17, 2024	

REQUEST

Staff is presenting an overview to the City Council on Chapter 9 of the proposed Land Development Code (LDC).

PURPOSE

To inform the Council on the provisions of the proposed Chapter 9 of the Land Development Code.

CONSIDERATIONS

The City is drafting a new LDC that is a reorganization of the existing chapters to a more modern user-friendly code, updates to each chapter to ensure consistency with current practice, incorporate recent ordinances, updates to all regulatory references.

Chapter 9: Environmental Protection

- Consolidated environmental regulations into a single chapter.
- Updated standards to be consistent with Florida Administrative Code.
- Updated City wetland standards according to the City's Environmental Officer request which are based on current practice.

COST/FUNDING

None.

RECOMMENDATION

It is recommended the City Council provide staff with feedback to facilitate the LDC Implementation.

IMPLEMENTATION

City staff will present other chapters of the proposed LDC at Council Workshops through June 2024.

ATTACHMENTS

1. Chapter 9 – Strike-Thru Version and Clean Version

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CHAPTER 9 - Chapter 9—ENVIRONMENTAL PROTECTION

ARTICLE I. PURPOSE AND INTENT

Sec. 9.1. Sec. 3-131. Sec. 4-231. Purpose and intent of Environmental standards.

These following environmental standards shall apply in all classifications and are intended to protect the health, safety, and welfare of City residents as well as natural resources within the City. :

- (a) (1) Air pollution. There shall be no emission of fumes, odors, vapors, gases, chemicals, smoke, dust, dirt, fly ash, or any particulate matter in violation of applicable state standards.
- (b) (2) Water pollution and sewage control. There shall be no discharge of liquid or solid wastes into any public or private sewage disposal system, or into or on the ground, or into any stream, waterway, water body or drainage canal, nor any accumulation of any liquid or solid wastes, in violation of the applicable provisions of the Comprehensive Plan, chapter 4 of this Code, or applicable state standards.
- (c) Threatened and endangered species (TES); species of special concern (SSC). All proposed developments must align with Comprehensive Plan, this Code, and relevant State regulations ensuring strict compliance with protective measures for both designated and identified habitats of TES and SSC. Any proposed development area intersecting with these habitats shall necessitate mitigation strategies, upholding the City's commitment to responsible land development and biodiversity preservation.

(Ord. No. 01-99, § 1(301.2(812.00)), 11-3-1999)

Sec. 9.2. RESERVED

Sec. 9.3. RESERVED

Sec. 9.4. RESERVED

ARTICLE I. DIVISION 5. WETLAND ALTERATION PERMITS^[2]

Footnotes:

--- (2) ---

Editor's note— See editor's note at Art. III.

Sec. 9.5. Sec. 4-231. Purpose and intent.

- (a) (a) It is the purpose and intent of this division to provide for the protection, maintenance, enhancement and utilization of wetlands within the City, recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the right of all citizens to protection and purity of the waters of the City and their associated wetland ecosystems. It is the policy of the City to minimize the disturbance of wetlands in the City and to encourage their use only for the purposes which are compatible with their natural functions and environmental benefits. Wetlands contiguous to waters of the state, noncontiguous and isolated wetlands serve the following important functions in the hydrologic cycle and ecological system:
- (1) (1) Riverine wetlands and adjacent floodplain lands provide natural storage and conveyance of floodwaters.
- (2) (2) Inland wetlands adjoining larger lakes and rivers act as barriers to waves and erosion.
- (3) (3) 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.
- (4) (4) 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.

~~(5) (5)~~—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.

~~(6) (6)~~—Inland wetlands adjacent to rivers, streams and lakes are important to freshwater fisheries as spawning grounds.

~~(7) (7)~~—Inland wetlands provide essential breeding and predator escape habitats for many forms of mammals, birds, reptiles, amphibians, fishes and invertebrates.

~~(8) (8)~~—Wetlands provide essential habitat for many rare, endangered, and threatened species.

~~(9) (9)~~—Wetlands provide excellent recreation opportunities, including but not limited to fishing, hunting, camping, photography, boating and nature observation.

~~(10) (10)~~—Wetlands, especially those in karst terrain, may contribute to surface water storage and may contribute to groundwater recharge.

~~(11) (11)~~—Forested wetlands provide an important source of forest products. This renewable resource provides a significant economic benefit to the forest landowners of the City.

~~(b) (b)~~—It is further the purpose and intent of this division to ensure that there be no net loss of wetlands function and acreage as defined herein. To this end, a wetland alteration permit will be required as provided herein.

Sec. 9.6. Sec. 4-232. – Wetland identification.

The term "wetlands" shall be as defined in **section 4-32.2**. The landward extent of wetland delineation shall be as provided in F.A.C. ch. 62-340 et seq. ~~If an undeveloped area has been cleared within 180 days from the date of application submittal or jurisdictional determination 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.~~

Sec. 9.7. Sec. 4-233. – Exemptions.

~~In accordance with addition to F.A.C. ch. 62-330.051, Activities activities~~ which are exempted from this division include:

~~(a) (1)~~—Nonmechanical clearing of wetland or buffer vegetation from an area of 500 square feet or less not to exceed **25 15** feet in width, for access to open water, provided the vegetation is removed from the wetland and disposed of on a suitable upland site;

~~(b) (2)~~—Minor maintenance or emergency repair to existing structures or improved areas;

~~(c) (3)~~—Clearing and construction of walking trails, **unpaved non-motorized trails**, and timber cat-walks for direct access to water bodies having no fill and **six-eight** feet wide or less;

~~(d) (4)~~—Overhead utility crossings; provided, however, associated access roads shall be subject to the requirements of this division **and state regulations**;

~~(e) (5)~~—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;

~~(f) (6)~~—Bona fide **mosquito-insect** control activities **favorably reviewed by the subcommittee on managed marshes and subsequently** permitted by federal, state, or regional agencies;

~~(g) (7)~~—Development within artificial wetlands which are created as part of a manmade treatment system;

~~(h) (8)~~—Development where a federal, state, regional, or local agency completed dredge and fill or wetland application or where said agencies have previously determined that no permit was required for a proposed development within one year prior to the adoption of this division; if a permit is aggrieved by the decision of the Environmental Management Director on this issue, said person may appeal directly to the City Council;

~~(i) (9)~~—Bona fide agricultural uses; provided, however, silviculture shall be regulated as provided in **section 4-2389.912**.

Sec. 9.8. Sec. 4-234. – Permit requirements.

It is hereby unlawful for any person to engage in any activity which will remove, fill, drain, dredge, clear, destroy, or alter any wetland or wetland buffer as herein defined on any lot or portion thereof without obtaining a wetland alteration permit in accordance with the provisions of this Code. Said above-described 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 removing, filling, draining, dredging, clearing or destroying any wetland or wetland buffer shall not require a permit pursuant to this section.

(a) (4) Concurrent application with development order review. If the wetlands alteration permit application is to be processed concurrently with development order review under this division or Article III, dDivision 32 of this articleChapter 3 as the case may be, then it shall be filed as part of the development order review application, and shall include, in addition a wetland management plan, which shall include but not be limited to the following:

- (1) a.—A detailed description of all water bodies, watercourses and wetlands on-site and a general description of all water bodies, watercourses, and wetlands immediately adjacent to the site and associated hydrologic conditions.
- (2) b.—A general description of the upland habitats on-site.
- (3) c.—A site survey no less than 12 months old to scale no greater than one inch equals 50 feet which identifies the landward extent of the wetland boundaries, buffer zones, existing and proposed conservation areas and adjacent off-site conservation areas. Upon approval by thedesignated City ForesterEnvironmental OfficerStaff, a survey to scale up to one inch equals 400 feet may be acceptable.
- (4) d.—A detailed description of any proposed activity within the wetlands and buffer zones.
- (5) e.—A detailed analysis of on-site and/or off-site mitigation areas, if applicable.
- (6) f.—A plan for the control of erosion, sedimentation and turbidity during and after construction which describes in detail the type and location of control measures, and provisions of maintenance.
- (7) g.—A detailed description of methods to be utilized in meeting the criteria listed in section 4-2359.6.
- (8) h.—A copy of all other federal, state, and regional permits and/or applications and conditions issued for the proposed project.
- (9) i.—Other information which thedesignated City Forester Environmental OfficerStaff may reasonably require to determine whether to approve the wetlands alteration permit.

(b) (2) Submittal requirements for Applications without development order reviewsubmittal requirements.

- (1) a.—Except as otherwise provided in subsection (a)(4) of this section, an application for a wetlands alteration permit shall be submitted with the following information:
 - a. 1.—Name, address, and phone number for the property owner and/or agent.
 - b. 2.—Signature of agent or owner.
 - c. 3.—Legal description of property, including the property appraiser's parcel number.
 - d. 4.—A scale drawing of the property identifying existing structures, adjacent streets, and water bodies.
 - e. 5.—A scaled drawing and description of the proposed activity and proposed location.
 - f. 6.—A copy of all other federal, state, and regional permits and/or applications and conditions issued for the proposed project for City approval.
 - g. 7.—A wetland management plan as provided for in subsection (a)(4) of this section; provided, however, that such plan shall not be required for the following activities:

- ~~i. i.~~—A private dock and additions whose total area does not exceed 500 square feet over waters designated or classified as class II, outstanding state waters, aquatic preserves, or other special designation, or within 100 feet thereof for a single-family residence.
 - ~~ii. ii.~~—A private dock and additions whose total area does not exceed 1,000 square feet over water within any class III waters for a single-family residence.
 - ~~iii. iii.~~—A private boat ramp for a single-family residence which does not exceed 15 feet wide and requires less than ten cubic yards of fill.
 - ~~iv. iv.~~—Construction of a seawall in a manmade canal where the seawall will be connected to existing seawalls on adjacent properties.
 - ~~v. v.~~—Restoration of existing and functioning structures.
 - ~~(2) b.~~—An applicant is ~~encouraged-required~~ to arrange a preapplication conference with the ~~designated~~ City ~~Environmental Officer~~ ~~Forester~~ ~~Staff~~ to discuss the proposed wetlands alteration and the scientific methods utilized to evaluate and justify any wetlands alteration prior to submitting a formal application to the ~~designated~~ City ~~Environmental Officer~~ ~~Staff~~ ~~Forester~~.
 - ~~(3) c.~~—An application for a wetland alteration permit and a nonrefundable processing fee shall be filed with the ~~designated~~ City ~~Environmental Officer~~ ~~Staff~~ ~~Forester~~. ~~All associated fees shall be included on the application and review fees will be passed through to the applicant.~~
 - ~~(4) d.~~—~~Three copies of the required submittals shall be submitted with the application.~~ The submittals shall meet the requirements of this Code and provide the information in this section.
 - ~~(5) e.~~—The ~~designated~~ City ~~Environmental Officer~~ ~~Staff~~ ~~Forester~~ shall determine the completeness of the application within three days of filing. If the application is determined to be incomplete, it shall be returned to the applicant. If the application is determined to be complete, the City ~~Environmental Officer~~ ~~Staff~~ ~~Forester~~ shall transmit it to the environmental ~~management-review~~ staff.
 - ~~(6) f.~~—Upon receipt, the environmental ~~management-review~~ staff shall review the application, conduct a preliminary site inspection, and notify the applicant prior to said inspection. If the application meets all of the requirements of this division ~~and mitigation is not required~~, it shall be approved within ten working days of receipt. Upon such approval the environmental ~~management-review~~ staff shall return the application to the ~~designated~~ City ~~Environmental Officer~~ ~~Staff~~ ~~Forester~~. If the application is denied, it shall be returned to the City ~~Forester~~ ~~Environmental Officer~~ ~~Staff~~, with the reasons for denial noted thereon, within ten working days of receipt; provided, however, upon receipt of a completed application, the City ~~Forester~~ ~~Environmental Officer~~ ~~Staff~~ determines that the proposed activity fails to meet the minimum requirements of this division, or if additional information is required, a request will be made, within ten working days after the preliminary site inspection, to the applicant to provide the additional information and modify the application and/or mitigation plans to prevent or limit the adverse impacts to the wetland or buffer.
 - ~~(7) g.~~—If the applicant fails to make the necessary modifications or provide the additional information within 60 days, then the ~~designated~~ City ~~Environmental Officer~~ ~~Staff~~ ~~Forester~~ shall deny the permit. The City ~~Environmental Officer~~ ~~Staff~~ ~~Forester~~ shall approve the permit within ten working days after receiving the required modifications or additional information, unless the modifications fail to meet the requirements of this division.
 - ~~(8) h.~~—The ~~designated~~ City ~~Environmental Officer~~ ~~Staff~~ ~~Forester~~ shall notify the applicant immediately after he approves or denies the application and issues the permit.

Sec. 9.9. Sec. 4-235. Standards for review.

- ~~(a) (a)~~—*Review criteria.* In determining whether the development is permissible under the provisions of this division, the environmental management staff shall consider but not be limited to the following criteria:
 - ~~(1) (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) (2)~~—The ability of the wetland to recharge the groundwater as demonstrated by reliable available information;
- ~~(3) (3)~~—The ability of the wetland to provide filtration and nutrient assimilation from surface water runoff;
- ~~(4) (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) (5)~~—The ability of the wetland to function as an integral part of any waters, water body, or watercourse;
- ~~(6) (6)~~—The cumulative impacts of the proposed development on the wetland system in combination with other developments which have been permitted or constructed in the same drainage basin;
- ~~(7) (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) (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) (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) (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;
- ~~(11) (11)~~—Whether the wetlands impacted by the proposed activity are protected or used in a manner which does not adversely impact their beneficial functions as provided under this Section in Section 4-2319.2;
- ~~(12) (12)~~—The ability of the wetland to continue to function after development is completed;
- ~~(13) (13)~~—Whether the proposed project and the wetland impacts are consistent with the policies in the Comprehensive Plan.

~~(b) (b)~~—Issuance of permits; conditions.

- ~~(1) (1)~~—If the application meets the requirements of this ~~division~~Article, the ~~designated City Environmental Officer Staff Forester~~ shall issue the permit based upon approval by the environmental management staff, as provided in this ~~division~~Article, and may attach such appropriate conditions to the said permit in order to comply with the standards of subsection (a) of this section. The ~~designated City Environmental Officer Staff Forester~~ may deny the permit if it does not meet such standards, stating the reasons therefor.
- ~~(2) (2)~~—The ~~designated City Environmental Officer Staff Forester~~ may approve a wetlands alteration permit, which shall 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 wetlands alteration permit, said federal, state, or regional permit application when available shall be submitted to the City ~~Forester Environmental Officer Staff~~. Concurrent applications to the local government and any federal, state, or regional agency shall be encouraged; provided, however, that the City ~~Forester Environmental Officer Staff~~ is not prevented from approving additional conditions to the said permit in order to comply with the standards of subsection (a) of this section.

Sec. 9.10. Sec. 4-236. – Buffer requirements.

- ~~(a) (a)~~ Properties less than 10 acres shall require 25 feet upland buffer from all wetlands and surface waters. Properties greater than 10 acres shall require 50 feet upland buffer from Lake Monroe and the St. Johns River and 25 feet upland buffer from any other surface waters or wetlands. ~~A buffer not less than 25 feet in width shall be established adjacent to and surrounding all wetlands except adjacent to and surrounding all wetlands designated as outstanding state waters (OFW), or natural resource management area (NRMA). Wetland buffers greater than 25 feet in width may be required by the City Manager if the upland activity adversely impacts the wetlands beneficial functions as provided for in section 4-231. The buffer may coincide with the setback on a lot under the zoning regulations; provided, however, there shall be no development in the buffer, except for direct access to water bodies.~~

~~(b) (b)~~ Development activities or construction which do not have a significant adverse effect on the natural function of the buffer may be allowed within the buffer. Proposed activities within the buffer may be permitted in accordance with the requirements of this division. The activities or construction which may be permitted 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, swales, retention areas, and drainage structures.

~~(c) (c)~~ A buffer not less than 50 feet in width shall be established adjacent to and surrounding all wetlands designated as OFW and NRMA. Provided, however, the buffer shall be a minimum of 25 feet in width if it is located on a lot with less than ten acres of area and is located within an approved subdivision recorded or exempted from the provisions of this division. Property owners are responsible for restoring wetland function in accordance with F.A.C. ch. 62-330 & 62-345 in the event of illegal non-permitted wetland impacts.

Sec. 9.11. Sec. 4-237. – Mitigation.

~~(a) (a)~~ Mitigation requirements.

~~(1) (1)~~ It is presumed that development activity will have an adverse affect upon wetlands, and that permit conditions are inadequate to avoid potential adverse environmental affects. If the applicant fails to overcome this presumption then mitigation shall be required. 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:

~~a. a.~~ Avoiding the impact altogether by not taking a certain action or parts of an action;

~~b. b.~~ Minimizing impacts by limiting the degree or magnitude of the action or its implementation;

~~c. c.~~ Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

~~d. d.~~ Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

~~e. e.~~ 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 significant alteration in the past.

~~(2) (2)~~ The purpose of mitigation is to compensate for unavoidable adverse impacts by replacing or providing substitute resources or environments through the creation of new wetlands, enhancement of existing wetlands, or reestablishment of wetlands which are no longer functioning due to significant alteration in the past. Where all or part of a wetland is destroyed or to be destroyed or substantially altered by development, a proposed mitigation plan shall include at least:

~~a. a.~~ A description of the wetland and buffer to be created or restored, which shall include but not limited to the type and functions of the wetland, the proposed mitigation ratios, species present or to be planted, plant density, anticipated source of plants, soils, and hydrologic regime;

~~b. b.~~ A plan for monitoring the success of a created or restored wetland;

~~c. c.~~ A detailed plan describing the monitoring and methods of control and maintenance of exotic or nuisance vegetation;

~~d. d.~~ Monitoring and replacement to assure a survival rate of 80 percent wetland vegetation for a minimum of three years;

~~e. e.~~ An upland habitat as an adjacent buffer on mitigated sites, as provided in **section 4-2369.710**.

~~(3) (3)~~ An acceptable mitigation plan shall be reasonably and technically feasible. Mitigation through restoration of other degraded wetlands is preferred over wetland creation.

- ~~(4)~~ ~~(4)~~—Mitigation should take place on-site or in close proximity thereto or in areas so designated as provided in subsection (d) of this section.
- ~~(5)~~ ~~(5)~~—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.
- ~~(6)~~ ~~(6)~~—A mitigation plan approved by a federal, state, or regional agency shall be acceptable to the City Manager; provided, however, that the approved mitigation plan does not result in the loss of function. If no such mitigation plan is required by the approved permit from the federal, state, or regional agency, or if the approved plan results in loss of function, then the City Manager may require a mitigation plan in compliance with this section.
- ~~(7)~~ ~~(7)~~—A mitigation plan should be designed to ensure that the wetlands ~~provides~~provide minimal mosquito larval habitat and does not eliminate habitat for predatory fish.
- ~~(8)~~ ~~(8)~~—Any wetlands which have been altered in a manner which does not comply with this division and no wetland alteration permit obtained shall be restored and the mitigation requirements as provided in this division shall apply.
- ~~(b)~~ ~~(b)~~—*Mitigation ratios.* In determining the replacement acreage ratios for restored or created wetlands, the City ~~Forester~~ Environmental Officer shall consider, but not be limited to, the following criteria:
- ~~(1)~~ ~~(1)~~—The length of time that can be expected to lapse before the functions of the impacted wetlands functions have been restored or offset.
- ~~(2)~~ ~~(2)~~—Any special designation or classification of the water body, including outstanding state waters, aquatic preserves, or class II waters.
- ~~(3)~~ ~~(3)~~—The type of wetland to be created and the likelihood of successfully creating that type of wetland.
- ~~(4)~~ ~~(4)~~—Whether or not the affected wetland is functioning as natural, healthy wetland of that type.
- ~~(5)~~ ~~(5)~~—Whether the wetland is unique for that watershed.
- ~~(6)~~ ~~(6)~~—The presence or absence of exotic or nuisance plants within the wetland and adverse effects those plants have on the wetland's beneficial functions.
- ~~(7)~~ ~~(7)~~—Whether the proposed project eliminates or changes the wetland from one type to another.
- ~~(8)~~ ~~(8)~~—The amount and quality of upland habitat preserved as conservation areas or buffer.
- ~~(9)~~ ~~(9)~~—Whether the applicant chooses to allocate funds to the City environmental improvement trust fund as provided in subsection (c) of this section.

Except as provided in **subsection (a)(6)** of this section, the mitigation ratio shall include replacement of the same type of wetland of 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., freshwater for freshwater where practicable. The minimum mitigation ratio for wetlands which have been harvested for timber within 180 days prior to submittal for a development order review shall be a minimum of a one-to-one ratio of created or restored wetlands to the adversely impacted wetland. The minimum mitigation ratio for wetlands which have been developed from agricultural uses within 180 days prior to submittal for a development order review shall be a minimum of one-to-one of created or restored wetlands to the adversely impacted wetlands.

~~(c)~~ ~~(c)~~—Environmental improvement trust fund.

- ~~(1)~~ ~~(1)~~—If the wetlands alteration permit application is not processed concurrently with development order review and a successful mitigation is not likely to offset unavoidable impacts, then the proposed development shall ~~be assessed~~pay an off-site mitigation fee.

~~(2)~~ ~~(2)~~—All mitigation fees shall be deposited in a fund to be known as the City environmental improvement trust fund. The purpose of the fund is to purchase, improve, create, restore, manage and replace natural habitat within the City. The fund shall be used for these purposes. The fund may be utilized in concert with other funding sources for the purposes required under this subsection. The fees may be used for the creation or restoration of any wetland type.

~~(3)~~ ~~(3)~~—The environmental improvement trust fund shall be expended as provided in **subsection (d)** of this section.

~~(d)~~ ~~(d)~~—Off-site mitigation.

~~(1)~~ ~~(1)~~—The City shall designate and attempt to purchase, or otherwise acquire, lands within each watershed and/or subbasin, which are suitable for the creation, acquisition, restoration or preservation of wetlands or wetland habitat systems, including adjacent upland habitat. The purpose of such designation is to provide areas suitable for the off-site mitigation of the impacts of wetland alteration.

~~(2)~~ ~~(2)~~—For those projects which require off-site mitigation, the mitigation shall be performed within the watershed or subbasin of those lands described in this subsection.

~~(3)~~ ~~(3)~~—The off-site mitigation areas may be developed with the intention of utilizing the areas for passive and/or active recreational parks; provided, however, the wetlands beneficial functions are not adversely impacted.

Sec. 9.12. ~~Sec. 4-238.~~ Silviculture.

Bona fide silvicultural harvesting activities are exempt from the permitting and mitigation requirements of this division and as otherwise required herein; provided further, however, failure to comply with the following requirements shall be a violation of this Code:

~~(a)~~ ~~(1)~~—Silvicultural harvesting activities shall follow the best management practices as outlined in the publication titled "Silviculture Best Management Practices Manual," Florida Department of Agriculture and Consumer Services, Division of Forestry, most recent edition. The use of the "Management Guidelines for Forested Wetlands in Florida," Florida Department of Agriculture and Consumer Services, shall be encouraged.

~~(b)~~ ~~(2)~~—Filling, draining, dredging, roadway construction or any activity which requires a permit from the St. Johns River Water Management District.

~~(c)~~ ~~(3)~~—Fire prevention techniques are hereby authorized by this Code.

Sec. 9.13. RESERVED

Sec. 9.14. RESERVED

ARTICLE II. ~~ARTICLE III.~~ — FLOODING^[1]

Footnotes:

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Editor's note— Ord. No. 01-14, § 2, adopted February 5, 2014, repealed art. III, §§ 4-201—4-228 and enacting a new art. III, §§ 4-201—4-219 as set out herein. Former art. III, §§ 4-201—4-225 pertained to similar subject matter and derived from Ord. No. 04-11, § 2, adopted Sept. 7, 2011.

Division 1. ~~DIVISION 1.~~ — FLOOD HAZARD MANAGEMENT

Sec. 9.15. ~~Sec. 4-201.~~ — General.

~~(a)~~ ~~4-201.1~~ *Title.* These regulations shall be known as the Floodplain Management Article of the City of DeBary, hereinafter referred to as "this article."

~~(b)~~ ~~4-201.2~~ *Scope.* The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and

utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development, or any other land disturbing activities.

- (c) ~~4-201.3~~ *Intent*. The purposes of this article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
- (1) ~~(1)~~ — Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 - (2) ~~(2)~~ — Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 - (3) ~~(3)~~ — Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
 - (4) ~~(4)~~ — Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
 - (5) ~~(5)~~ — Minimize damage to public and private facilities and utilities;
 - (6) ~~(6)~~ — Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
 - (7) ~~(7)~~ — Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
 - (8) ~~(8)~~ — Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.
- (d) ~~4-201.4~~ *Coordination with the Florida Building Code*. This article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
- (e) ~~4-201.5~~ *Warning*. The degree of flood protection required by this article and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this article.
- (f) ~~201.6~~ *Disclaimer of Liability*. This article shall not create liability on the part of the City Council of the City of DeBary or by any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 01-14, § 2, 2-5-2014)

Sec. 9.16. Sec. 4-202. -- Applicability.

- (a) ~~4-202.1~~ *General*. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (b) ~~4-202.2~~ *Areas to which this article applies*. This article shall apply to all flood hazard areas within the City of DeBary, as established in Subsection 4-202-3(c) below.
- (c) ~~4-202.3~~ *Basis for establishing flood hazard areas*. **The Flood Insurance Study for Volusia County, Florida and Incorporated Areas dated February 19, 2014-, and all subsequent amendments and revisions, and the accompanying**

Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City of DeBary Building Department located at City Hall, 16 Colomba Road, DeBary, Florida 32713. **IS THERE A MORE RECENT STUDY?**

(d) ~~4-202.4~~ *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to **Subsection 4-205(e)** of this ~~article-section~~ the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

(1) ~~(1)~~ — Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.

(2) ~~(2)~~ — Are above the base flood elevation for the special flood hazard that completely or partially encompasses the subject land area, the subject land area within the limits of the special flood hazard area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

(e) ~~4-202.5~~ *Other laws.* The provisions of this article shall not be deemed to nullify any provisions of local, state or federal law.

(f) ~~4-202.6~~ *Abrogation and greater restrictions.* This article supersedes any ordinance or Land Development Code regulation in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances or code regulations including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this article and any other ordinance or code regulation, the more restrictive shall govern. This article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this article.

(g) ~~4-202.7~~ *Interpretation.* In the interpretation and application of this article, all provisions shall be:

(1) ~~(1)~~ — Considered as minimum requirements;

(2) ~~(2)~~ — Liberally construed in favor of the governing body; and

(3) ~~(3)~~ — Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. **01-14**, § 2, 2-5-2014)

Sec. 9.17. ~~Sec. 4-203.~~ Duties and powers of the floodplain administrator.

(a) ~~4-203.1~~ *Designation.* The Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

(b) ~~4-203.2~~ *General.* The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to **Section 4-207.16** of this article.

(c) ~~4-203.3~~ *Applications and permits.* The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

(1) ~~(1)~~ — Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

(2) ~~(2)~~ — Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;

- (3) (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- (4) (4) Provide available flood elevation and flood hazard information;
- (5) (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- (6) (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
- (7) (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and
- (8) (8) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.
- (d) *4-203.4 Substantial improvement and substantial damage determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

 - (1) (4) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - (2) (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (3) (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - (4) (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this article is required.
- (e) *4-203.5 Modifications of the strict application of the requirements of the Florida Building Code.* The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to **Section 4-207-9.16** of this article.
- (f) *4-203.6 Notices and orders.* The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.
- (g) *4-203.7 Inspections.* The Floodplain Administrator shall make the required inspections as specified in **Section 4-206-9.15** of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- (h) *4-203.8 Other duties of the Floodplain Administrator.* The Floodplain Administrator shall have other duties, including but not limited to:

- (1) (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to **Section 4-203.4.4 9.12(d)(4)** of this article;
- (2) (2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
- (3) (3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
- (4) (4) Review required design certifications and documentation of elevations specified by this article and the Florida Building Code and this article to determine that such certifications and documentations are complete; and
- (5) (5) Notify the Federal Emergency Management Agency when the corporate boundaries of City of DeBary are modified.
- (i) **4-203.9 Floodplain management records.** Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at DeBary City Hall, 16 Colomba Road, DeBary, Florida.

(Ord. No. **01-14**, § 2, 2-5-2014)

Sec. 9.18. Sec. 4-204. Permits.

- (a) **4-204.1 Permits required.** Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this article, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.
- (b) **4-204.2 Floodplain development permits or approvals.** Floodplain development permits or approvals shall be issued pursuant to this article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
- (c) **4-204.3 Buildings, structures and facilities exempt from the Florida Building Code.** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this article:
- (1) (1) Railroads and ancillary facilities associated with the railroad.
- (2) (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (3) (3) Temporary buildings or sheds used exclusively for construction purposes.

(4) (4) — Mobile or modular structures used as temporary offices.

(5) (5) — Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(6) (6) — Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

(7) (7) — Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(8) (8) — Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

(9) (9) — Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

(d) 4-204.4 *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

(1) (1) — Identify and describe the development to be covered by the permit or approval.

(2) (2) — Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

(3) (3) — Indicate the use and occupancy for which the proposed development is intended.

(4) (4) — Be accompanied by a site plan or construction documents as specified in Section 4-2059.14 of this article.

(5) (5) — State the valuation of the proposed work.

(6) (6) — Be signed by the applicant or the applicant's authorized agent.

(7) (7) — Give such other data and information as required by the Floodplain Administrator.

(e) 4-204.5 *Validity of permit or approval.* The issuance of a floodplain development permit or approval pursuant to this article shall not be construed to be a permit for, or approval of, any violation of this article, the Florida Building Codes, or any other ordinance or regulation of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

(f) 4-204.6 *Expiration.* A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

(g) 4-204.7 *Suspension or revocation.* The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other ordinance, regulation or requirement of this community.

(h) 4-204.8 *Other permits required.* Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

(1) (1) — The St. Johns River Water Management District; section 373.036, F.S.

(2) (2) — Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.

(3) (3) — Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.

(4) (4) — Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

(5) (5) — Federal permits and approvals.

(Ord. No. 01-14, § 2, 2-5-2014)

Sec. 9.19. ~~Sec. 4-205.~~ Site plans and construction documents.

(a) ~~4-205.1~~ *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:

(1) (1) — Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.

(2) (2) — Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 4-205.29.14(b)(2) or (3) of this article, and shall be established to the satisfaction of the City Engineer.

(3) (3) — Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 4-205.29.14(1) of this article.

(4) (4) — Location of the proposed activity and proposed structures, and locations of existing buildings and structures.

(5) (5) — Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

(6) (6) — Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

(7) (7) — Existing and proposed alignment of any proposed alteration of a watercourse.

(8) (8) — Construction plans and drainage basin maps shall be annotated to clearly and accurately delineate the flood hazard area encompassed by the applicable on-site base flood elevation. Topographic and floodplain mapping shall provide a minimum accuracy to a tenth of a foot (i.e., one-foot topographic contour interval and base flood elevation to one decimal accuracy). USGS quadrangle maps depicting five-foot topographic contours are not adequate to comply with these design standards. Floodplains shall be delineated for all storage areas located within the property boundary as defined by the pre-development topography, even if these areas are not illustrated on the City's FIRM panels.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this article but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this article.

(b) ~~4-205.2~~ *Information in flood hazard areas without base flood elevations (approximate Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

(1) (1) — Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices, and shall be prepared to the satisfaction of the City Engineer.

a. ~~(a)~~ Under no circumstances will the City accept a base flood elevation determined by overlaying a FEMA zone A, AE, AH or AO delineation with any topographic contour information.

~~(2)~~ ~~(2)~~ Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source. Other sources may include approved drainage studies of a comprehensive and regional nature; and site-specific assessments signed and sealed by a professional engineer licensed to practice in the state.

a. ~~(a)~~ In the event that topographic contours developed in the field by ground survey techniques utilize a datum other than FEMA's effective (NAVD88) datum, a "datum shift" shall be required to "adjust" the applicable on-site base flood elevation to a common and consistent datum. Several resources are available on the internet for performing a datum shift once the project's latitude and longitude are determined.

~~(3)~~ ~~(3)~~ Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

a. ~~(a)~~ Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or

b. ~~(b)~~ Specify that the base flood elevation is three (3) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three (3) feet.

~~(4)~~ ~~(4)~~ Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

~~(5)~~ ~~(5)~~ Where there are conflicting elevation requirements, require that the design flood elevation used shall be the highest elevation, unless the applicant provides base flood elevations established in accordance with **Section 4-205.29.14(1)** of this article.

~~(c)~~ ~~4-205.3~~ *Additional analyses and certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

~~(1)~~ ~~(1)~~ For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in **Section 4-205.49.14(d)** of this article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

~~(2)~~ ~~(2)~~ For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

~~(3)~~ ~~(3)~~ For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner

which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in [Section 4-205.49.14\(d\)](#) of this article.

(4) (4) — For development activities proposed on properties with wetlands, depressions and any other low areas within the property boundary that are capable of impounding storm water runoff on the proposed undeveloped portion of the property, a sufficient number of geotechnical borings, to the satisfaction of the City Engineer, and ecological assessments shall be conducted to establish the Seasonal High Water Level (SHWL) and Seasonal High Ground Water Table (SHGWT). Geotechnical assessments shall be conducted by a professional geotechnical engineer licensed in the state. Ecological assessments shall include an evaluation of hydric soils, vegetative cover, wetland species, lichen lines, etc.

(5) (5) — For development activities encroaching into a special flood hazard area, hydraulic calculations and supporting methodology that demonstrate the volume of the encroachment and method of compensatory storage is in accordance with the requirements of [Section 4-2189.24](#) of this article.

(d) [4-205.4](#) *Submission of additional data.* When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.20. ~~Sec. 4-206.~~ – Inspections.

(a) [4-206.1](#) *General.* Development or other land disturbing activities for which a floodplain development permit or approval is required shall be subject to inspection.

(b) [4-206.2](#) *Development other than buildings and structures.* The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

(c) [4-206.3](#) *Buildings, structures and facilities exempt from the Florida Building Code.* The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

(d) [4-206.4](#) *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:

(1) (1) — If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

(2) (2) — If the elevation used to determine the required elevation of the lowest floor was determined in accordance with [Section 4-205.29.14\(b\)\(3\)\(b\)](#) of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(e) [4-206.5](#) *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in [Section 4-206.49.15\(d\)](#) of this article.

(f) [4-206.6](#) *Manufactured homes.* The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.21. Sec. 4-207. – Variances and appeals.

- (a) 4-207.1 General. The City Council shall hear and decide on requests for appeals and requests for variances from the strict application of this article. Pursuant to section 553.73(5), F.S., the Florida Building Commission shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code.
- (b) 4-207.2 Appeals. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this article. Any person aggrieved by the decision of City Council may appeal such decision to the Circuit Court, as provided by Florida Statutes.
- (c) 4-207.3 Limitations on authority to grant variances. The City Council shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in **Section 4-207.79.16(g)** of this article, the conditions of issuance set forth in **Section 9.16(h)-4-207.8** of this article, and the comments and recommendations of the Floodplain Administrator and the Building Official. The City Council has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.
- (d) 4-207.4 Restrictions in floodways. A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in **Section 4-205.39.14(c)** of this article.
- (e) 4-207.5 Historic buildings. A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.
- (f) 4-207.6 Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance meets the requirements of **Section 4-207.49.16(d)**, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.
- (g) 4-207.7 Considerations for issuance of variances. In reviewing requests for variances, the City Council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this article, and the following:
- (1) (4) — The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
 - (2) (2) — The danger to life and property due to flooding or erosion damage;
 - (3) (3) — The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
 - (4) (4) — The importance of the services provided by the proposed development to the community;
 - (5) (5) — The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
 - (6) (6) — The compatibility of the proposed development with existing and anticipated development;
 - (7) (7) — The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
 - (8) (8) — The safety of access to the property in times of flooding for ordinary and emergency vehicles;
 - (9) (9) — The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

~~(10)(10)~~—The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

~~(h) 4-207.8~~ Conditions for issuance of variances. Variances shall be issued only upon:

~~(1) (1)~~—Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards;

~~(2) (2)~~—Determination by the City Council that:

a. ~~(a)~~ Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

b. ~~(b)~~ The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

c. ~~(c)~~ The variance is the minimum necessary, considering the flood hazard, to afford relief.

~~(3) (3)~~—Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

~~(4) (4)~~—If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 01-14, § 2, 2-5-2014)

Sec. 9.22. RESERVED

Sec. 9.23. RESERVED

Sec. 9.24. RESERVED

Division 2. ~~DIVISION 3~~—FLOOD RESISTANT DEVELOPMENT

Sec. 9.25. ~~Sec. 4-211~~—Buildings and structures.

~~4-211.1(a)~~ *Design and construction of buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to Section 9.13(c) 4-204.3 of this article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 4-2179.23 of this article.

(Ord. No. 01-14, § 2, 2-5-2014)

Sec. 9.26. ~~Sec. 4-212~~—Subdivisions.

~~(a) 4-212.1~~ *Minimum requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

~~(1) (1)~~—Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(b) 4-212.2 Subdivision plats. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

(1) (1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;

(2) (2) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 4-205.2(1)-9.14(b) of this article; and

(3) (3) Compliance with the site improvement and utilities requirements of Section 4-213.19 of this article.

(Ord. No. 01-14, § 2, 2-5-2014)

Sec. 9.27. Sec. 4-213. Site improvements, utilities and limitations.

(a) 4-213.1 Minimum requirements. All proposed new development shall be reviewed to determine that:

(1) (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(b) 4-213.2 Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

(c) 4-213.3 Water supply facilities. All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

(d) 4-213.4 Limitations on sites in regulatory floodways. No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 4-205.3(1)-9.14(c)(1) of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

(e) 4-213.5 Limitations on placement of fill. Subject to the limitations of this article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code, and Section 4-218.24 of this article.

(Ord. No. 01-14, § 2, 2-5-2014)

Sec. 9.28. Sec. 4-214. Manufactured homes.

(a) 4-214.1 General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this article.

- (b) 4-214.2 Foundations. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and this article.
- (c) 4-214.3 Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.
- (d) 4-214.4 Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with **Section 4-214.59.20(e) or 4-214.69.20(f)** of this article, as applicable.
- (e) 4-214.5 General elevation requirement. Unless subject to the requirements of **Section 4-214.69.9.20(f)** of this article, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A).
- (f) 4-214.6 Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to **Section 4-214.59.20(e)** of this article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:
- (1) (1) — Bottom of the frame of the manufactured home is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A); or
- (2) (2) — Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.
- (g) 4-214.7 Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas.
- (h) 4-214.8 Utility equipment. Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.

(Ord. No. 01-14, § 2, 2-5-2014)

Sec. 9.29. Sec. 4-215. --Recreational vehicles and park trailers.

- (a) 4-215.1 Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:
- (1) (1) — Be on the site for fewer than 180 consecutive days; or
- (2) (2) — Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.
- (b) 4-215.2 Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in **Section 4-215.19.21(a)** of this article for temporary placement shall meet the requirements of **Section 4-214.9.20** of this article for manufactured homes.

(Ord. No. 01-14, § 2, 2-5-2014)

Sec. 9.30. Sec. 4-216. --Tanks.

- (a) 4-216.1 Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

- (b) ~~4-216.2~~ *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of **Section 4-216.39.22(c)** of this article shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
- (c) ~~4-216.3~~ *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
- (d) ~~4-216.4~~ *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
- (1) ~~(1)~~ — At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (2) ~~(2)~~ — Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. **01-14**, § 2, 2-5-2014)

Sec. 9.31. ~~Sec. 4-217.~~ Other development.

- (a) ~~4-217.1~~ *General requirements for other development.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, shall:
- (1) ~~(1)~~ — Be located and constructed to minimize flood damage;
 - (2) ~~(2)~~ — Meet the limitations of **Section 4-213.49.19(d)** of this article if located in a regulated floodway;
 - (3) ~~(3)~~ — Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
 - (4) ~~(4)~~ — Be constructed of flood damage-resistant materials; and
 - (5) ~~(5)~~ — Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
- (b) ~~4-217.2~~ *Fences in regulated floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of **Section 4-213.49.19(d)** of this article.
- (c) ~~4-217.3~~ *Retaining walls, sidewalks and driveways in regulated floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of **Section 4-213.49.19(d)** of this article.
- (d) ~~4-217.4~~ *Roads and watercourse crossings in regulated floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of **Section 4-213.49.19(d)** of this article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of **Section 4-205.3(3)9.14(c)(3)** of this article.

(Ord. No. **01-14**, § 2, 2-5-2014)

Sec. 9.32. ~~Sec. 4-218.~~ Compensatory storage for encroachments.

- (a) ~~4-218.1~~ *Compensatory storage.* Compensatory storage for all encroachments into the City of DeBary's special flood hazard areas shall be provided in accordance with the following requirements:
- (1) ~~(1)~~ — Compliance will be based upon a volume for volume ("cup for cup") methodology, with the volume of compensation equal to the volume of encroachment at each and every elevation (one-foot contour interval).

Providing compensating storage equal to the volume of encroachment at each elevation will provide equivalent management for all storm events of magnitude less than the 100-year storm event, and is intended to prevent cumulative water quantity impacts.

~~(2)~~ ~~(2)~~—Compensatory storage creation shall occur below the existing base flood elevation and above the predicted Seasonal High Ground Water Table (SHGWT) and/or the Seasonal High Water Levels (SHWL).

~~(3)~~ ~~(3)~~—Compensatory storage shall occur within dedicated storage areas excavated contiguous to the existing special flood hazard area.

~~(4)~~ ~~(4)~~—Under no circumstances will compensatory storage be allowed within ponds that also provide stormwater management (retention and/or detention) for the proposed development.

~~(5)~~ ~~(5)~~—The City may approve the creation of off-site compensatory storage areas located outside the property boundary on a case-by-case basis.

~~(6)~~ ~~(6)~~—The City reserves the right to enforce additional criteria upon any project that is located within what the City considers a special flood hazard area. At the City's discretion, additional flood control measures may be required to adequately protect upstream systems, downstream systems, and/or off-site properties.

~~(7)~~ ~~(7)~~—Floodplain encroachment shall be computed for all fill placed within the special flood hazard area, or for any other volume displacing activities, below the base flood elevation and above the predicted SHGWT or SHWL.

~~(b)~~ ~~4-218.2~~ *Special stormwater management criteria.* Special stormwater management criteria may be enforced upon any development activity that proposes any form of stormwater detention within a watershed that does not have a positive outfall (i.e., land-locked basin).

Sec. 9.33. ~~Sec. 4-219.~~—The Florida building code.

The floodplain management regulations put forth in this article are to be coordinated with the Florida Building Code. The City of DeBary hereby adopts local administrative amendments to the ~~2010-2023~~ Florida Building Code as set forth in Chapter 14, Article II of the City of DeBary Code of Ordinances.

(Ord. No. ~~01-14~~, § 2, 2-5-2014)

Sec. 9.34. RESERVED

Sec. 9.35. RESERVED

Sec. 9.36. RESERVED

Division 3. ~~DIVISION 6.~~—POTABLE WATER WELL FIELD PROTECTION^[3]

Footnotes:

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Editor's note— See editor's note at Art. III.

Sec. 9.37. ~~Sec. 4-251.~~—Purpose and intent.

~~(a)~~ ~~(a)~~—The purpose and intent of this division is to safeguard the public health, safety and welfare of the people of the City by providing for the regulation of the storage, handling, use or production of hazardous substances within zones of protection surrounding potable water supply wells as defined in this Code, thereby protecting the potable water supply from contamination. This division is required by F.S. § 163.3202.

~~(b)~~ ~~(b)~~—Further, there is an urgent need to protect existing and future public and private potable water supply wells as defined in this Code in the City from the irreversible and adverse effects of chemical contamination.

~~(c)~~ ~~(c)~~—Also, the state aquifer was designated by the United States Environmental Protection Agency as a "sole source aquifer," which means it is the only practical source of drinking water for the residents of the City.

Sec. 9.38. Sec. 4-252. – Establishment of well field protection zones.

The regulations set forth in this division shall apply to all lands surrounding a potable water supply well designated as the primary or secondary well field protection zone as defined in this Code.

~~(a) (1)~~ *Mapping.* The City Manager shall provide well field protection zone maps to designate and geographically delineate and amend, as necessary, the ~~primary and secondary~~ 500-foot well field protection zones as defined in ~~this Code~~ F.A.C. 62-521. Said maps shall be on file with the ~~City Planner~~ GMD.

~~(2) Interpretation of zone designation.~~ ~~To determine the location of properties and buildings within the primary or secondary well field protection zones, the following rules shall apply:~~

~~(b) a.~~ Properties located ~~partially or~~ wholly within ~~one the~~ protection zone shall be governed by the restrictions ~~applicable to that zone of this section.~~

~~b.~~ Properties having parts lying within more than one zone shall be governed by the restrictions applicable to the protection zone in which each part of the property is located.

~~c.~~ Where the boundary between two protection zones passes through a building, the entire building shall be considered to be in the more restrictive zone.

~~d.~~ Where the building or portion thereof is overlapped by protection zones of different wells or well fields, the most restrictive regulations shall apply.

~~e.~~ Where a property or portion thereof is overlapped by protection zones of different wells or well fields, the most restrictive of the regulations shall prevail over said overlapped area.

Sec. 9.39. Sec. 4-253. – Restrictions within the zones.

~~(a)~~ For ~~property determined to be within the the primary~~ well field protection zone, except as otherwise provided in this division, any ~~new nonresidential use, handling, production or storage of hazardous substances shall be prohibited;~~ provided, however, any ~~existing nonresidential use, handling, production or storage of hazardous substances is lawful and shall be considered a nonconforming activity, but shall apply for identified in F.A.C. ch. 62-521 shall require a~~ well field protection permit ~~as provided in this division and be subject to the containment standards in section 4-255~~ through the Florida Department of Environmental Protection.

~~(b)~~ For the ~~secondary well field protection zone, except as otherwise provided in this division, the owner or operator of any new or existing nonresidential use, handling, production or storage of hazardous substances shall apply for a well field protection permit as provided in this division.~~

Sec. 9.40. Sec. 4-254. – Hazardous substances regulated.

~~(a) (a)~~ The hazardous substances regulated by this division shall consist of the following:

~~(1) (1)~~ F.A.C. ch. 38F-41 (the Florida Substance List).

~~(2) (2)~~ Title 40 of the Code of Federal Regulations part 261 (Identification and Listing of Hazardous Wastes).

~~(3) (3)~~ Title 40 of the Code of Federal Regulations part 302.4 (Table 302.4) (List of Hazardous Substances and Reportable Quantities).

~~(4) (4)~~ Title 40 of the Code of Federal Regulations part 355, Appendix A and B (List of Extremely Hazardous Substances).

~~(b) (b)~~ A hazardous substance, as defined herein, 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 City Manager upon the advice of the environmental management staff, poses a substantial threat to the life, health, or safety of persons or property or to the environment.

Sec. 9.41. Sec. 4-255. – Containment standards.

~~(a) (a)~~ *Monitoring capacity.* Except as provided in **sections 4-2569.31 and 4-2579.32**, 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 approved by the City Manager.

~~(b)~~ ~~(b)~~ *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 4-256-9.31](#) and [4-257-9.32](#).

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

~~(2)~~ ~~(2)~~ *Secondary containment.*

~~a.~~ ~~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 discharged 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 total volume of all of the container(s) 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.~~ ~~b.~~ Vacuum suction devices, absorbent scavenger materials or other devices designated and approved by the City Manager shall be present on-site or available within a time set by the City Manager. Devices or materials shall be available in sufficient supply so as to control and collect the total quantity of hazardous substances. Emergency containers shall be present and of such capacity as to hold the total quantity of hazardous substances plus absorbent material.

~~c.~~ ~~c.~~ Procedures shall be established for periodic in-house inspection and maintenance of containment and emergency equipment. Such procedures shall be provided to the City Manager in writing. A checklist and schedule of regular maintenance shall be established, and a log shall be kept of inspections and maintenance. As long as the storage system is in operation, such logs and records shall be kept available for inspection by the environmental management staff during regular business hours.

~~(c)~~ ~~(c)~~ *Out-of-service storage systems.*

~~(1)~~ ~~(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)~~ ~~(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 City Manager.

~~(3)~~ ~~(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 by the owner of the property at a reasonable time as determined by the City Manager. Provided, however, such reasonable time for filing shall not be more than 180 days.

~~(d)~~ ~~(d)~~ *Maintenance, repair or replacement.*

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

~~(2)~~ ~~(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)~~ ~~(3)~~ Replacement of any existing storage system for hazardous substances must be in accordance with the new installation standards.

Sec. 9.42. ~~Sec. 4-256.~~ – Exemptions.

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

- (a) ~~(1)~~ The transportation of any hazardous substance through either or both the primary or secondary well field protection zone, provided the transporting vehicle is in transit.
- (b) ~~(2)~~ Agricultural uses, except that said uses shall comply with F.S. § 487.011 et seq., the Florida Pesticide Law and the Florida Pesticide Application Act of 1974 and F.A.C. 5E-2.001 et seq. and 5E-9.001 et seq. and F.A.C.
- (c) ~~(3)~~ The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.
- (d) ~~(4)~~ Fire, police, emergency medical services and essential utility services.
- (e) ~~(5)~~ Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.
- (f) ~~(6)~~ Office uses, except for the storage, handling or use of hazardous substances as provided for in applicable administrative codes.
- (g) ~~(7)~~ Repairing or maintaining any facility or improvement on lands within the primary or secondary well field protection zone.
- (h) ~~(8)~~ Storage tanks which are constructed and operated in accordance with the storage tanks regulations as set forth in F.A.C. ch. 17-61, or its successor, F.A.C. ch. 17-761.
- (i) ~~(9)~~ Geotechnical borings.
- (j) ~~(10)~~ Residential activities.

Sec. 9.43. ~~Sec. 4-257.~~ – Modification of requirements.

- (a) ~~(a)~~ Any person affected by this division may petition the City Manager for modification from the prohibitions and monitoring requirements of this division; provided that the person demonstrates by a preponderance of competent, substantial evidence that special or unusual circumstances and adequate technology exists to isolate the facility or activity from the potable water supply in the event of a spill. In granting or denying modification, the City Manager shall consider the following criteria:
 - (1) ~~(1)~~ Hazardous substances inventory;
 - (2) ~~(2)~~ Containment;
 - (3) ~~(3)~~ Emergency collection devices;
 - (4) ~~(4)~~ Emergency plan;
 - (5) ~~(5)~~ Daily monitoring;
 - (6) ~~(6)~~ Equipment maintenance;
 - (7) ~~(7)~~ Reporting of spills;
 - (8) ~~(8)~~ Potable water well monitoring;
 - (9) ~~(9)~~ Groundwater monitoring;
 - (10) ~~(10)~~ Alterations/expansions;
 - (11) ~~(11)~~ Reconstruction after catastrophe (fire, vandalism, flood, explosion, collapse, wind, war or other);
 - (12) ~~(12)~~ Other criteria, as applicable to groundwater protection issues.
- (b) ~~(b)~~ The City Manager may attach any appropriate conditions and safeguards which are necessary to protect the well field pursuant to such modified requirements.

Sec. 9.44. Sec. 4-258. – Well field protection zone permits.

- (a) ~~(a)~~ Except as provided in **sections 4-2569.31 and 4-2579.32**, no person shall construct, modify, install or replace a hazardous substance storage system or component thereof within a primary or secondary potable well field protection zone without obtaining a well field protection zone permit, in accordance with the provisions of this division.
- (b) ~~(b)~~ Pursuant to **section 4-2659.31**, under no conditions shall a person allow the discharge of a hazardous substance into the soils, groundwater or surface water within said zones.
- (c) ~~(c)~~ An applicant is encouraged to arrange a preapplication conference with the City Manager, to determine the location of any existing or proposed well field protection zones prior to submitting a formal application.

Sec. 9.45. Sec. 4-259. – Application procedures and requirements.

- (a) ~~(a)~~ Where a development is being processed under **Chapter 3division 2** of this ~~article-code~~ or this division and a well field protection permit is required, the information and exhibits in **subsections (b)(1) through (8)** of this section shall be provided with the preliminary plat ~~application processed under division 2 of this article or the final site plan application processed under this division~~ for concurrent review.
- (b) ~~(b)~~ An application for a well field protection zone permit not being processed concurrently with an application pursuant to **Chapter 3division 2** of this ~~article-code~~ or this division shall be submitted in the manner described herein on the forms prescribed by the City Manager with the following information and applicable documents:
- (1) ~~(1)~~ Name, address and phone number of the property owner, operator and/or agent.
 - (2) ~~(2)~~ Signature of the agent or owner.
 - (3) ~~(3)~~ Legal description of the property, including the tax parcel number.
 - (4) ~~(4)~~ A survey or scale drawing of the property, if required by the City Manager, identifying existing structures, adjacent streets, water bodies and all potable water supply wells located within 1,000 feet of the proposed hazardous substance storage area.
 - (5) ~~(5)~~ A description of the proposed activity at the proposed location.
 - (6) ~~(6)~~ Construction plans and specifications for the hazardous substance storage system, including, but not limited to, details of tanks, conveyance and pumping systems, secondary containment, leak detection, over-fill protection and access, prepared by a professional engineer licensed by the state.
 - (7) ~~(7)~~ A list of all known hazardous substances that may be utilized, generated and/or stored at the described property. This shall include, but not be limited to, any substance described in **section 4-2549.29**.
 - (8) ~~(8)~~ Other information which the City Manager may reasonably require.
- (c) ~~(c)~~ The application, with all applicable documents and a nonrefundable processing fee, shall be submitted to the City Manager.
- (d) ~~(d)~~ Three copies of the required documents shall be submitted with the application. The documents shall meet the requirements of this Code.
- (e) ~~(e)~~ The City Manager shall determine the acceptance of the application within three days of filing. If the application is determined to be incomplete, it shall be returned to the applicant. If the application is determined to be complete, it shall be accepted and the City Manager shall transmit it to the environmental management staff.
- (f) ~~(f)~~ Upon receipt, the environmental management staff shall review the application, conduct a preliminary site inspection notifying the applicant prior to said inspection and make a determination of approval, approval with conditions or denial within 20 working days of acceptance. If the application meets all of the requirements of this Code, it shall be approved. Upon such approval the environmental management staff shall return the application to the City Manager. If the application is denied, it shall be returned to the City Manager, with the reasons for denial noted thereon.

- ~~(g)~~ ~~(g)~~—Provided, however, upon receipt of an accepted application, if the environmental management staff determines that the proposed activity fails to meet the minimum requirements of this division, or if additional information is required, a request will be made to the applicant to provide the additional information and modify the application.
- ~~(h)~~ ~~(h)~~—If the applicant fails to make the necessary modifications or provide the additional information within 60 days, then the City Manager shall deny the permit. If the necessary modifications are made or the additional information is provided, the City Manager shall approve the permit within 20 days from the receipt of the additional information.
- ~~(i)~~ ~~(i)~~—The City Manager shall issue the permit or denial immediately upon receiving the determination of the environmental management staff.

Sec. 9.46. Sec. 4-260.—Standards for review.

In determining whether the proposed development shall be approved under the provisions of this division, the City Manager shall consider the requirements of this division, together with the following criteria:

- ~~(a)~~ ~~(1)~~—Whether, and the extent to which, a proposed development must be located within the well field protection zone in order to perform the development's basic functions.
- ~~(b)~~ ~~(2)~~—The impacts of the proposed development on the well field protection zones in combination with other developments which have been permitted or constructed immediately adjacent to the secondary well field protection zone.
- ~~(c)~~ ~~(3)~~—The protection afforded after development is completed and/or any adverse conditions caused by the development.
- ~~(d)~~ ~~(4)~~—Whether the proposed development is consistent with the policies in the Land Development Code and the Comprehensive Plan.

Sec. 9.47. Sec. 4-261.—Issuance of permits; conditions.

- ~~(a)~~ ~~(a)~~—A permit shall specify the 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 division are met. Commencement of construction of a facility under a well field protection permit shall be deemed acceptance of all conditions specified in the permit.
- ~~(b)~~ ~~(b)~~—No hazardous substance storage, handling or use may be commenced unless the owner or operator demonstrates that the system has been constructed in substantial conformity with the permit.

Sec. 9.48. Sec. 4-262.—Closure of facilities.

- ~~(a)~~ ~~(a)~~—Upon closure of a hazardous substance storage systems for any reason, the facility owner or operator shall file an application with the City Manager of intention to close the storage system. Said application shall be processed as provided in section 4-2599.34. By signing the well field protection permit application, the owner is held responsible to adhere to the closure procedures outlined in this section. An application to close a hazardous substance storage facility shall include the following:

- ~~(1)~~ ~~(1)~~—A schedule of events to complete the closure of this activity which does or did store, handle, use, or produce hazardous substances. As a minimum, the owner/applicant shall address the following:

- ~~a.~~ ~~a.~~—Disposition of all hazardous substances and contaminated containers.
- ~~b.~~ ~~b.~~—Cleanup of the activity and environs to preclude leaching of hazardous substances into the aquifer.
- ~~c.~~ ~~c.~~—Certification by the City Manager that disposal and cleanup have been completed in a manner acceptable to the City Manager. Certification may be waived if the applicant provides evidence to the City Manager that all of the following conditions apply to the subject land use facility or activity:
- ~~i.~~ ~~1.~~—The entire operation is maintained inside the building of the facility.
- ~~ii.~~ ~~2.~~—The method of removing operating waste is not a septic tank, sewer main, or floor drain.
- ~~iii.~~ ~~3.~~—There is no evidence of spills permeating floors or the environs.

iv. 4.—There are not previous outstanding violations of any regulatory agency concerned with hazardous, industrial or special waste.

v. 5.—There is not evidence of past contamination in the public drinking water well associated with a facility located in the primary or secondary protection zones.

vi. 6.—The applicant shall provide a sworn statement that disposal and cleanup have been completed in a manner acceptable to the City Manager.

(2) (2)—Reserved.

(b) (b)—The environmental management staff shall inspect the facility to determine whether or not the requirements of this section have been met.

Sec. 9.49. Sec. 4-263.—Fee resolution.

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

Sec. 9.50. Sec. 4-264.—Hazardous substance inspection program to comply with federal law.

The department of fire services shall implement a hazardous substance inspection program for the City. Said inspection program shall ensure compliance with 40 CFR 260.00—265.00. This regulatory program will be in addition to the requirements of this division.

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CHAPTER 9 - ENVIRONMENTAL PROTECTION

ARTICLE I. PURPOSE AND INTENT

Sec. 9.1. Purpose and intent of environmental standards.

The following environmental standards shall apply in all classifications and are intended to protect the health, safety, and welfare of City residents as well as natural resources within the City.

- (a) *Air pollution.* There shall be no emission of fumes, odors, vapors, gases, chemicals, smoke, dust, dirt, fly ash, or any particulate matter in violation of applicable state standards.
- (b) *Water pollution and sewage control.* There shall be no discharge of liquid or solid wastes into any public or private sewage disposal system, or into or on the ground, or into any stream, waterway, water body or drainage canal, nor any accumulation of any liquid or solid wastes, in violation of the applicable provisions of the Comprehensive Plan, this Code, or applicable state standards.
- (c) *Threatened and endangered species (TES); species of special concern (SSC).* All proposed developments must align with Comprehensive Plan, this Code, and relevant State regulations ensuring strict compliance with protective measures for both designated and identified habitats of TES and SSC. Any proposed development area intersecting with these habitats shall necessitate mitigation strategies, upholding the City's commitment to responsible land development and biodiversity preservation.

(Ord. No. 01-99, § 1(301.2(812.00)), 11-3-1999)

Sec. 9.2. RESERVED

Sec. 9.3. RESERVED

Sec. 9.4. RESERVED

ARTICLE I. WETLAND ALTERATION PERMITS^[2]

Footnotes:

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Editor's note— See editor's note at Art. III.

Sec. 9.5. Purpose and intent.

- (a) It is the purpose and intent of this division to provide for the protection, maintenance, enhancement and utilization of wetlands within the City, recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the right of all citizens to protection and purity of the waters of the City and their associated wetland ecosystems. It is the policy of the City to minimize the disturbance of wetlands in the City and to encourage their use only for the purposes which are compatible with their natural functions and environmental benefits. Wetlands contiguous to waters of the state, noncontiguous and isolated wetlands serve the following important functions in the hydrologic cycle and ecological system:
 - (1) Riverine wetlands and adjacent floodplain lands provide natural storage and conveyance of floodwaters.
 - (2) Inland wetlands adjoining larger lakes and rivers act as barriers to waves and erosion.
 - (3) 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.
 - (4) 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.

- (5) 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.
 - (6) Inland wetlands adjacent to rivers, streams and lakes are important to freshwater fisheries as spawning grounds.
 - (7) Inland wetlands provide essential breeding and predator escape habitats for many forms of mammals, birds, reptiles, amphibians, fishes and invertebrates.
 - (8) Wetlands provide essential habitat for many rare, endangered, and threatened species.
 - (9) Wetlands provide excellent recreation opportunities, including but not limited to fishing, hunting, camping, photography, boating and nature observation.
 - (10) Wetlands, especially those in karst terrain, may contribute to surface water storage and may contribute to groundwater recharge.
 - (11) Forested wetlands provide an important source of forest products. This renewable resource provides a significant economic benefit to the forest landowners of the City.
- (b) It is further the purpose and intent of this division to ensure that there be no net loss of wetlands function and acreage as defined herein. To this end, a wetland alteration permit will be required as provided herein.

Sec. 9.6. Wetland identification.

The term "wetlands" shall be as defined in section 2.2. The landward extent of wetland delineation shall be as provided in F.A.C. ch. 62-340 et seq.

Sec. 9.7. Exemptions.

In addition to F.A.C. ch. 62-330.051, activities which are exempted from this division include:

- (a) Nonmechanical clearing of wetland or buffer vegetation from an area of 500 square feet or less not to exceed 15 feet in width, for access to open water, provided the vegetation is removed from the wetland and disposed of on a suitable upland site;
- (b) Minor maintenance or emergency repair to existing structures or improved areas;
- (c) Clearing and construction of walking trails, unpaved non-motorized trails, and timber cat-walks for direct access to water bodies having no fill and eight feet wide or less;
- (d) Overhead utility crossings; provided, however, associated access roads shall be subject to the requirements of this division and state regulations;
- (e) 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;
- (f) Bona fide insect control activities permitted by federal, state, or regional agencies;
- (g) Development within artificial wetlands which are created as part of a manmade treatment system;
- (h)
- (i) Bona fide agricultural uses; provided, however, silviculture shall be regulated as provided in section 9.12.

Sec. 9.8. Permit requirements.

It is hereby unlawful for any person to engage in any activity which will remove, fill, drain, dredge, clear, destroy, or alter any wetland or wetland buffer as herein defined on any lot or portion thereof without obtaining a wetland alteration permit in accordance with the provisions of this Code. Said above-described 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 removing, filling, draining, dredging, clearing or destroying any wetland or wetland buffer shall not require a permit pursuant to this section.

- (a) *Concurrent application with development order review.* If the wetlands alteration permit application is to be processed concurrently with development order review under this division or Article III, Division 2 of this Chapter 3 as the case may be, then it shall be filed as part of the development order review application, and shall include, in addition a wetland management plan, which shall include but not be limited to the following:
- (1) A detailed description of all water bodies, watercourses and wetlands on-site and a general description of all water bodies, watercourses, and wetlands immediately adjacent to the site and associated hydrologic conditions.
 - (2) A general description of the upland habitats on-site.
 - (3) A site survey no less than 12 months old to scale no greater than one inch equals 50 feet which identifies the landward extent of the wetland boundaries, buffer zones, existing and proposed conservation areas and adjacent off-site conservation areas. Upon approval by designated City Staff, a survey to scale up to one inch equals 400 feet may be acceptable.
 - (4) A detailed description of any proposed activity within the wetlands and buffer zones.
 - (5) A detailed analysis of on-site and/or off-site mitigation areas, if applicable.
 - (6) A plan for the control of erosion, sedimentation and turbidity during and after construction which describes in detail the type and location of control measures, and provisions of maintenance.
 - (7) A detailed description of methods to be utilized in meeting the criteria listed in section 9.6.
 - (8) A copy of all other federal, state, and regional permits and/or applications and conditions issued for the proposed project.
 - (9) Other information which designated City Staff may reasonably require to determine whether to approve the wetlands alteration permit.
- (b) Submittal requirements for applications without development order review.
- (1) Except as otherwise provided in subsection (a) of this section, an application for a wetlands alteration permit shall be submitted with the following information:
 - a. Name, address, and phone number for the property owner and/or agent.
 - b. Signature of agent or owner.
 - c. Legal description of property, including the property appraiser's parcel number.
 - d. A scale drawing of the property identifying existing structures, adjacent streets, and water bodies.
 - e. A scaled drawing and description of the proposed activity and proposed location.
 - f. A copy of all other federal, state, and regional permits and/or applications and conditions issued for the proposed project for City approval.
 - g. A wetland management plan as provided for in subsection (a) of this section; provided, however, that such plan shall not be required for the following activities:
 - i. A private dock and additions whose total area does not exceed 500 square feet over waters designated or classified as class II, outstanding state waters, aquatic preserves, or other special designation, or within 100 feet thereof for a single-family residence.
 - ii. A private dock and additions whose total area does not exceed 1,000 square feet over water within any class III waters for a single-family residence.
 - iii. A private boat ramp for a single-family residence which does not exceed 15 feet wide and requires less than ten cubic yards of fill.

- iv. Construction of a seawall in a manmade canal where the seawall will be connected to existing seawalls on adjacent properties.
 - v. Restoration of existing and functioning structures.
- (2) An applicant is required to arrange a preapplication conference with the designated City Staff to discuss the proposed wetlands alteration and the scientific methods utilized to evaluate and justify any wetlands alteration prior to submitting a formal application to the designated City Staff.
 - (3) An application for a wetland alteration permit and a nonrefundable processing fee shall be filed with the designated City Staff.
 - (4) The submittals shall meet the requirements of this Code and provide the information in this section.
 - (5) The designated City Staff shall determine the completeness of the application within three days of filing. If the application is determined to be incomplete, it shall be returned to the applicant. If the application is determined to be complete, the City Staff shall transmit it to the environmental review staff.
 - (6) Upon receipt, the environmental review staff shall review the application, conduct a preliminary site inspection, and notify the applicant prior to said inspection. If the application meets all of the requirements of this division and mitigation is not required, it shall be approved within ten working days of receipt. Upon such approval the environmental review staff shall return the application to the designated City Staff. If the application is denied, it shall be returned to the City Staff, with the reasons for denial noted thereon, within ten working days of receipt; provided, however, upon receipt of a completed application, the City Staff determines that the proposed activity fails to meet the minimum requirements of this division, or if additional information is required, a request will be made, within ten working days after the preliminary site inspection, to the applicant to provide the additional information and modify the application and/or mitigation plans to prevent or limit the adverse impacts to the wetland or buffer.
 - (7) If the applicant fails to make the necessary modifications or provide the additional information within 60 days, then the designated City Staff shall deny the permit. The City Staff shall approve the permit within ten working days after receiving the required modifications or additional information, unless the modifications fail to meet the requirements of this division.
 - (8) The designated City Staff shall notify the applicant immediately after he approves or denies the application and issues the permit.

Sec. 9.9. Standards for review.

- (a) *Review criteria.* In determining whether the development is permissible under the provisions of this division, the environmental management staff 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 permitted or constructed 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;
 - (11) Whether the wetlands impacted by the proposed activity are protected or used in a manner which does not adversely impact their beneficial functions as provided under this Section;
 - (12) The ability of the wetland to continue to function after development is completed;
 - (13) Whether the proposed project and the wetland impacts are consistent with the policies in the Comprehensive Plan.
- (b) Issuance of permits; conditions.
- (1) If the application meets the requirements of this Article, the designated City Staff shall issue the permit based upon approval by the environmental management staff, as provided in this Article, and may attach such appropriate conditions to the said permit in order to comply with the standards of subsection (a) of this section. The designated City Staff may deny the permit if it does not meet such standards, stating the reasons therefor.
 - (2) The designated City Staff may approve a wetlands alteration permit, which shall 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 wetlands alteration permit, said federal, state, or regional permit application when available shall be submitted to the City Staff. Concurrent applications to the local government and any federal, state, or regional agency shall be encouraged; provided, however, that the City Staff is not prevented from approving additional conditions to the said permit in order to comply with the standards of subsection (a) of this section.

Sec. 9.10. Buffer requirements.

- (a) Properties less than 10 acres shall require 25 feet upland buffer from all wetlands and surface waters. Properties greater than 10 acres shall require 50 feet upland buffer from Lake Monroe and the St. Johns River and 25 feet upland buffer from any other surface waters or wetlands.
- (b) Development activities or construction which do not have a significant adverse effect on the natural function of the buffer may be allowed within the buffer. Proposed activities within the buffer may be permitted in accordance with the requirements of this division. The activities or construction which may be permitted 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, swales, retention areas, and drainage structures.
- (c) Property owners are responsible for restoring wetland function in accordance with F.A.C. ch. 62-330 & 62-345 in the event of illegal non-permitted wetland impacts.

Sec. 9.11. Mitigation.

- (a) Mitigation requirements.
 - (1) It is presumed that development activity will have an adverse affect upon wetlands, and that permit conditions are inadequate to avoid potential adverse environmental affects. If the applicant fails to overcome this presumption then mitigation shall be required. 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:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action;

- b. Minimizing impacts by limiting the degree or magnitude of the action or its implementation;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
 - e. 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 significant alteration in the past.
- (2) The purpose of mitigation is to compensate for unavoidable adverse impacts by replacing or providing substitute resources or environments through the creation of new wetlands, enhancement of existing wetlands, or reestablishment of wetlands which are no longer functioning due to significant alteration in the past. Where all or part of a wetland is destroyed or to be destroyed or substantially altered by development, a proposed mitigation plan shall include at least:
- a. A description of the wetland and buffer to be created or restored, which shall include but not limited to the type and functions of the wetland, the proposed mitigation ratios, species present or to be planted, plant density, anticipated source of plants, soils, and hydrologic regime;
 - b. A plan for monitoring the success of a created or restored wetland;
 - c. A detailed plan describing the monitoring and methods of control and maintenance of exotic or nuisance vegetation;
 - d. Monitoring and replacement to assure a survival rate of 80 percent wetland vegetation for a minimum of three years;
 - e. An upland habitat as an adjacent buffer on mitigated sites, as provided in section 9.10.
- (3) An acceptable mitigation plan shall be reasonably and technically feasible. Mitigation through restoration of other degraded wetlands is preferred over wetland creation.
- (4) Mitigation should take place on-site or in close proximity thereto or in areas so designated as provided in subsection (d) of this section.
- (5) 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.
- (6) A mitigation plan approved by a federal, state, or regional agency shall be acceptable to the City Manager; provided, however, that the approved mitigation plan does not result in the loss of function. If no such mitigation plan is required by the approved permit from the federal, state, or regional agency, or if the approved plan results in loss of function, then the City Manager may require a mitigation plan in compliance with this section.
- (7) A mitigation plan should be designed to ensure that the wetlands provide minimal mosquito larval habitat and does not eliminate habitat for predatory fish.
- (8) Any wetlands which have been altered in a manner which does not comply with this division and no wetland alteration permit obtained shall be restored and the mitigation requirements as provided in this division shall apply.
- (b) *Mitigation ratios.* In determining the replacement acreage ratios for restored or created wetlands, the City Environmental Officer shall consider, but not be limited to, the following criteria:
- (1) The length of time that can be expected to lapse before the functions of the impacted wetlands functions have been restored or offset.

- (2) Any special designation or classification of the water body, including outstanding state waters, aquatic preserves, or class II waters.
- (3) The type of wetland to be created and the likelihood of successfully creating that type of wetland.
- (4) Whether or not the affected wetland is functioning as natural, healthy wetland of that type.
- (5) Whether the wetland is unique for that watershed.
- (6) The presence or absence of exotic or nuisance plants within the wetland and adverse effects those plants have on the wetland's beneficial functions.
- (7) Whether the proposed project eliminates or changes the wetland from one type to another.
- (8) The amount and quality of upland habitat preserved as conservation areas or buffer.
- (9) Whether the applicant chooses to allocate funds to the City environmental improvement trust fund as provided in subsection (c) of this section.

Except as provided in subsection (a)(6) of this section, the mitigation ratio shall include replacement of the same type of wetland of 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., freshwater for freshwater where practicable. The minimum mitigation ratio for wetlands which have been harvested for timber within 180 days prior to submittal for a development order review shall be a minimum of a one-to-one ratio of created or restored wetlands to the adversely impacted wetland. The minimum mitigation ratio for wetlands which have been developed from agricultural uses within 180 days prior to submittal for a development order review shall be a minimum of one-to-one of created or restored wetlands to the adversely impacted wetlands.

(c) Environmental improvement trust fund.

- (1) If the wetlands alteration permit application is not processed concurrently with development order review and a successful mitigation is not likely to offset unavoidable impacts, then the proposed development shall pay an off-site mitigation fee.
- (2) All mitigation fees shall be deposited in a fund to be known as the City environmental improvement trust fund. The purpose of the fund is to purchase, improve, create, restore, manage and replace natural habitat within the City. The fund shall be used for these purposes. The fund may be utilized in concert with other funding sources for the purposes required under this subsection. The fees may be used for the creation or restoration of any wetland type.
- (3) The environmental improvement trust fund shall be expended as provided in subsection (d) of this section.

(d) Off-site mitigation.

- (1) The City shall designate and attempt to purchase, or otherwise acquire, lands within each watershed and/or subbasin, which are suitable for the creation, acquisition, restoration or preservation of wetlands or wetland habitat systems, including adjacent upland habitat. The purpose of such designation is to provide areas suitable for the off-site mitigation of the impacts of wetland alteration.
- (2) For those projects which require off-site mitigation, the mitigation shall be performed within the watershed or subbasin of those lands described in this subsection.
- (3) The off-site mitigation areas may be developed with the intention of utilizing the areas for passive and/or active recreational parks; provided, however, the wetlands beneficial functions are not adversely impacted.

Sec. 9.12. Silviculture.

Bona fide silvicultural harvesting activities are exempt from the permitting and mitigation requirements of this division and as otherwise required herein; provided further, however, failure to comply with the following requirements shall be a violation of this Code:

- (a) Silvicultural harvesting activities shall follow the best management practices as outlined in the publication titled "Silviculture Best Management Practices Manual," Florida Department of Agriculture and Consumer Services, Division of Forestry, most recent edition. The use of the "Management Guidelines for Forested Wetlands in Florida," Florida Department of Agriculture and Consumer Services, shall be encouraged.
- (b) Filling, draining, dredging, roadway construction or any activity which requires a permit from the St. Johns River Water Management District.
- (c) Fire prevention techniques are hereby authorized by this Code.

Sec. 9.13. RESERVED

Sec. 9.14. RESERVED

ARTICLE II. – FLOODING^[1]

Footnotes:

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Editor's note— Ord. No. 01-14, § 2, adopted February 5, 2014, repealed art. III, §§ 4-201—4-228 and enacting a new art. III, §§ 4-201—4-219 as set out herein. Former art. III, §§ 4-201—4-225 pertained to similar subject matter and derived from Ord. No. 04-11, § 2, adopted Sept. 7, 2011.

Division 1. FLOOD HAZARD MANAGEMENT

Sec. 9.15. General.

- (a) *Title.* These regulations shall be known as the Floodplain Management Article of the City of DeBary, hereinafter referred to as "this article."
- (b) *Scope.* The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development, or any other land disturbing activities.
- (c) *Intent.* The purposes of this article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
 - (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 - (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 - (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
 - (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
 - (5) Minimize damage to public and private facilities and utilities;
 - (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
 - (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
 - (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

- (d) *Coordination with the Florida Building Code.* This article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
- (e) *Warning.* The degree of flood protection required by this article and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this article.
- (f) *Disclaimer of Liability.* This article shall not create liability on the part of the City Council of the City of DeBary or by any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.16. Applicability.

- (a) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (b) *Areas to which this article applies.* This article shall apply to all flood hazard areas within the City of DeBary, as established in subsection (c) below.
- (c) *Basis for establishing flood hazard areas.* The Flood Insurance Study for Volusia County, Florida and Incorporated Areas dated February 19, 2014, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City of DeBary Building Department located at City Hall, 16 Colomba Road, DeBary, Florida 32713.
- (d) *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to subsection (e) of this section the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:
 - (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.
 - (2) Are above the base flood elevation for the special flood hazard that completely or partially encompasses the subject land area, the subject land area within the limits of the special flood hazard area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.
- (e) *Other laws.* The provisions of this article shall not be deemed to nullify any provisions of local, state or federal law.
- (f) *Abrogation and greater restrictions.* This article supersedes any ordinance or Land Development Code regulation in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances or code regulations including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this article and any other ordinance or code regulation, the more restrictive shall govern. This article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this article.
- (g) *Interpretation.* In the interpretation and application of this article, all provisions shall be:
 - (1) Considered as minimum requirements;

- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.17. Duties and powers of the floodplain administrator.

- (a) *Designation.* The Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.
- (b) *General.* The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to Section 9.16 of this article.
- (c) *Applications and permits.* The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:
 - (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
 - (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;
 - (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
 - (4) Provide available flood elevation and flood hazard information;
 - (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
 - (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
 - (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and
 - (8) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.
- (d) *Substantial improvement and substantial damage determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
 - (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this article is required.
- (e) *Modifications of the strict application of the requirements of the Florida Building Code.* The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 9.16 of this article.
- (f) *Notices and orders.* The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.
- (g) *Inspections.* The Floodplain Administrator shall make the required inspections as specified in Section 9.15 of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- (h) *Other duties of the Floodplain Administrator.* The Floodplain Administrator shall have other duties, including but not limited to:
- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 9.12(d)(4) of this article;
 - (2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
 - (3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
 - (4) (4) Review required design certifications and documentation of elevations specified by this article and the Florida Building Code and this article to determine that such certifications and documentations are complete; and
 - (5) (5) Notify the Federal Emergency Management Agency when the corporate boundaries of City of DeBary are modified.
- (i) *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at DeBary City Hall, 16 Colomba Road, DeBary, Florida.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.18. Permits.

- (a) *Permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this article, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.

- (b) *Floodplain development permits or approvals.* Floodplain development permits or approvals shall be issued pursuant to this article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
- (c) *Buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this article:
- (1) Railroads and ancillary facilities associated with the railroad.
 - (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
 - (3) Temporary buildings or sheds used exclusively for construction purposes.
 - (4) Mobile or modular structures used as temporary offices.
 - (5) Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
 - (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
 - (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
 - (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
 - (9) Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps
- (d) *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:
- (1) Identify and describe the development to be covered by the permit or approval.
 - (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
 - (3) Indicate the use and occupancy for which the proposed development is intended.
 - (4) Be accompanied by a site plan or construction documents as specified in Section 9.14 of this article.
 - (5) State the valuation of the proposed work.
 - (6) Be signed by the applicant or the applicant's authorized agent.
 - (7) Give such other data and information as required by the Floodplain Administrator.
- (e) *Validity of permit or approval.* The issuance of a floodplain development permit or approval pursuant to this article shall not be construed to be a permit for, or approval of, any violation of this article, the Florida Building Codes, or any other ordinance or regulation of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

- (f) *Expiration.* A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
- (g) *Suspension or revocation.* The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other ordinance, regulation or requirement of this community.
- (h) *Other permits required.* Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:
 - (1) The St. Johns River Water Management District; section 373.036, F.S.
 - (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
 - (3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
 - (4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
 - (5) Federal permits and approvals.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.19. Site plans and construction documents.

- (a) *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:
 - (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
 - (2) Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 9-14(b)(2) or (3) of this article, and shall be established to the satisfaction of the City Engineer.
 - (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 9.14(1) of this article.
 - (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
 - (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 - (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
 - (7) Existing and proposed alignment of any proposed alteration of a watercourse.
 - (8) Construction plans and drainage basin maps shall be annotated to clearly and accurately delineate the flood hazard area encompassed by the applicable on-site base flood elevation. Topographic and floodplain mapping shall provide a minimum accuracy to a tenth of a foot (i.e., one-foot topographic contour interval and base flood elevation to one decimal accuracy). USGS quadrangle maps depicting five-foot topographic contours are not adequate to comply with these design standards. Floodplains shall be delineated for all storage areas located

within the property boundary as defined by the pre-development topography, even if these areas are not illustrated on the City's FIRM panels.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this article but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this article.

- (b) *Information in flood hazard areas without base flood elevations (approximate Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:
- (1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices, and shall be prepared to the satisfaction of the City Engineer.
 - a. Under no circumstances will the City accept a base flood elevation determined by overlaying a FEMA zone A, AE, AH or AO delineation with any topographic contour information.
 - (2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source. Other sources may include approved drainage studies of a comprehensive and regional nature; and site-specific assessments signed and sealed by a professional engineer licensed to practice in the state.
 - a. In the event that topographic contours developed in the field by ground survey techniques utilize a datum other than FEMA's effective (NAVD88) datum, a "datum shift" shall be required to "adjust" the applicable on-site base flood elevation to a common and consistent datum. Several resources are available on the internet for performing a datum shift once the project's latitude and longitude are determined.
 - (3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - b. Specify that the base flood elevation is three (3) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three (3) feet.
 - (4) Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.
 - (5) Where there are conflicting elevation requirements, require that the design flood elevation used shall be the highest elevation, unless the applicant provides base flood elevations established in accordance with Section 9.14(1) of this article.
- (c) *Additional analyses and certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:
- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 9.14(d) of this article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

- (2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 9.14(d) of this article.
- (4) For development activities proposed on properties with wetlands, depressions and any other low areas within the property boundary that are capable of impounding storm water runoff on the proposed undeveloped portion of the property, a sufficient number of geotechnical borings, to the satisfaction of the City Engineer, and ecological assessments shall be conducted to establish the Seasonal High Water Level (SHWL) and Seasonal High Ground Water Table (SHGWT). Geotechnical assessments shall be conducted by a professional geotechnical engineer licensed in the state. Ecological assessments shall include an evaluation of hydric soils, vegetative cover, wetland species, lichen lines, etc.
- (5) For development activities encroaching into a special flood hazard area, hydraulic calculations and supporting methodology that demonstrate the volume of the encroachment and method of compensatory storage is in accordance with the requirements of Section 9.24 of this article.
- (d) *Submission of additional data.* When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.20. Inspections.

- (a) *General.* Development or other land disturbing activities for which a floodplain development permit or approval is required shall be subject to inspection.
- (b) *Development other than buildings and structures.* The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.
- (c) *Buildings, structures and facilities exempt from the Florida Building Code.* The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.
- (d) *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:
 - (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
 - (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 9.14(b)(3)(b) of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

- (e) *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 9.15(d) of this article.
- (f) *Manufactured homes.* The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.21. Variances and appeals.

- (a) *General.* The City Council shall hear and decide on requests for appeals and requests for variances from the strict application of this article. Pursuant to section 553.73(5), F.S., the Florida Building Commission shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code.
- (b) *Appeals.* The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this article. Any person aggrieved by the decision of City Council may appeal such decision to the Circuit Court, as provided by Florida Statutes.
- (c) *Limitations on authority to grant variances.* The City Council shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 9.16(g) of this article, the conditions of issuance set forth in Section 9.16(h) of this article, and the comments and recommendations of the Floodplain Administrator and the Building Official. The City Council has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.
- (d) *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 9.14(c) of this article.
- (e) *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.
- (f) *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance meets the requirements of Section 9.16(d), is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.
- (g) *Considerations for issuance of variances.* In reviewing requests for variances, the City Council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this article, and the following:
 - (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
 - (4) The importance of the services provided by the proposed development to the community;
 - (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

- (6) The compatibility of the proposed development with existing and anticipated development;
 - (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
 - (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
 - (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.
- (h) Conditions for issuance of variances. Variances shall be issued only upon:
- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards;
 - (2) Determination by the City Council that:
 - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - c. The variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
 - (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.22. RESERVED

Sec. 9.23. RESERVED

Sec. 9.24. RESERVED

Division 2. FLOOD RESISTANT DEVELOPMENT

Sec. 9.25. Buildings and structures.

(a) *Design and construction of buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to Section 9.13(c) of this article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 9.23 of this article.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.26. Subdivisions.

- (a) *Minimum requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:
- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 - (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- (b) *Subdivision plats.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:
- (1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
 - (2) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 9.14(b) of this article; and
 - (3) Compliance with the site improvement and utilities requirements of Section 9.19 of this article.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.27. Site improvements, utilities and limitations.

- (a) *Minimum requirements.* All proposed new development shall be reviewed to determine that:
- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 - (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- (b) *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.
- (c) *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.
- (d) *Limitations on sites in regulatory floodways.* No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 9.14(c)(1) of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.
- (e) *Limitations on placement of fill.* Subject to the limitations of this article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code, and Section 9.24 of this article.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.28. Manufactured homes.

- (a) *General.* All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this article.
- (b) *Foundations.* All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and this article.
- (c) *Anchoring.* All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.
- (d) *Elevation.* Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 9.20(e) or 9.20(f) of this article, as applicable.
- (e) *General elevation requirement.* Unless subject to the requirements of Section 9.9.20(f) of this article, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A).
- (f) *Elevation requirement for certain existing manufactured home parks and subdivisions.* Manufactured homes that are not subject to Section 9.20(e) of this article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:
 - (1) Bottom of the frame of the manufactured home is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A); or
 - (2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.
- (g) *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas.
- (h) *Utility equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.29. Recreational vehicles and park trailers.

- (a) *Temporary placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:
 - (1) Be on the site for fewer than 180 consecutive days; or
 - (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.
- (b) *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in Section 9.21(a) of this article for temporary placement shall meet the requirements of Section 9.20 of this article for manufactured homes.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.30. Tanks.

- (a) *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
- (b) *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of Section 9.22(c) of this article shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
- (c) *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
- (d) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
 - (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.31. Other development.

- (a) *General requirements for other development.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, shall:
 - (1) Be located and constructed to minimize flood damage;
 - (2) Meet the limitations of Section 9.19(d) of this article if located in a regulated floodway;
 - (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
 - (4) Be constructed of flood damage-resistant materials; and
 - (5) Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
- (b) *Fences in regulated floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 9.19(d) of this article.
- (c) *Retaining walls, sidewalks and driveways in regulated floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 9.19(d) of this article.
- (d) *Roads and watercourse crossings in regulated floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 9.19(d) of this article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 9.14(c)(3) of this article.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.32. Compensatory storage for encroachments.

- (a) *Compensatory storage.* Compensatory storage for all encroachments into the City of DeBary's special flood hazard areas shall be provided in accordance with the following requirements:
- (1) Compliance will be based upon a volume for volume ("cup for cup") methodology, with the volume of compensation equal to the volume of encroachment at each and every elevation (one-foot contour interval). Providing compensating storage equal to the volume of encroachment at each elevation will provide equivalent management for all storm events of magnitude less than the 100-year storm event, and is intended to prevent cumulative water quantity impacts.
 - (2) Compensatory storage creation shall occur below the existing base flood elevation and above the predicted Seasonal High Ground Water Table (SHGWT) and/or the Seasonal High Water Levels (SHWL).
 - (3) Compensatory storage shall occur within dedicated storage areas excavated contiguous to the existing special flood hazard area.
 - (4) Under no circumstances will compensatory storage be allowed within ponds that also provide stormwater management (retention and/or detention) for the proposed development.
 - (5) The City may approve the creation of off-site compensatory storage areas located outside the property boundary on a case-by-case basis.
 - (6) The City reserves the right to enforce additional criteria upon any project that is located within what the City considers a special flood hazard area. At the City's discretion, additional flood control measures may be required to adequately protect upstream systems, downstream systems, and/or off-site properties.
 - (7) Floodplain encroachment shall be computed for all fill placed within the special flood hazard area, or for any other volume displacing activities, below the base flood elevation and above the predicted SHGWT or SHWL.
- (b) *Special stormwater management criteria.* Special stormwater management criteria may be enforced upon any development activity that proposes any form of stormwater detention within a watershed that does not have a positive outfall (i.e., land-locked basin).

Sec. 9.33. The Florida building code.

The floodplain management regulations put forth in this article are to be coordinated with the Florida Building Code. The City of DeBary hereby adopts local administrative amendments to the 2023 Florida Building Code as set forth in Chapter 14, Article II of the City of DeBary Code of Ordinances.

(Ord. No. [01-14](#), § 2, 2-5-2014)

Sec. 9.34. RESERVED

Sec. 9.35. RESERVED

Sec. 9.36. RESERVED

Division 3. *POTABLE WATER WELL FIELD PROTECTION*^[3]

Footnotes:

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Editor's note— See editor's note at Art. III.

Sec. 9.37. Purpose and intent.

- (a) The purpose and intent of this division is to safeguard the public health, safety and welfare of the people of the City by providing for the regulation of the storage, handling, use or production of hazardous substances within zones of protection surrounding potable water supply wells as defined in this Code, thereby protecting the potable water supply from contamination. This division is required by F.S. § 163.3202.

- (b) Further, there is an urgent need to protect existing and future public and private potable water supply wells as defined in this Code in the City from the irreversible and adverse effects of chemical contamination.
- (c) Also, the state aquifer was designated by the United States Environmental Protection Agency as a "sole source aquifer," which means it is the only practical source of drinking water for the residents of the City.

Sec. 9.38. Establishment of well field protection zones.

The regulations set forth in this division shall apply to all lands surrounding a potable water supply well designated as the primary or secondary well field protection zone as defined in this Code.

- (a) *Mapping.* The City Manager shall provide well field protection zone map to designate and geographically delineate and amend, as necessary, the 500-foot well field protection zone as defined in F.A.C. 62-521. Said map shall be on file with the GMD.
- (b) *Interpretation of zone designation.* Properties located partially or wholly within the protection zone shall be governed by the restrictions of this section.

Sec. 9.39. Restrictions within the zones.

For property determined to be within the well field protection zone, except as otherwise provided in , any use identified in F.A.C. ch. 62-521 shall require a well field protection permit through the Florida Department of Environmental Protection.

Sec. 9.40. Hazardous substances regulated.

- (a) The hazardous substances regulated by this division shall consist of the following:
 - (1) F.A.C. ch. 38F-41 (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, Appendix A and B (List of Extremely Hazardous Substances).
- (b) A hazardous substance, as defined herein, 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 City Manager upon the advice of the environmental management staff, poses a substantial threat to the life, health, or safety of persons or property or to the environment.

Sec. 9.41. Containment standards.

- (a) *Monitoring capacity.* Except as provided in sections 9.31 and 9.32, 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 approved by the City Manager.
- (b) *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 9.31 and 9.32.
 - (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 discharged 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 total volume of all of the container(s) 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 designated and approved by the City Manager shall be present on-site or available within a time set by the City Manager. Devices or materials shall be available in sufficient supply so as to control and collect the total quantity of hazardous substances. 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 provided to the City Manager in writing. A checklist and schedule of regular maintenance shall be established, and a log shall be kept of inspections and maintenance. As long as the storage system is in operation, such logs and records shall be kept available for inspection by the environmental management staff during regular business hours.

(c) 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 City Manager.
- (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 by the owner of the property at a reasonable time as determined by the City Manager. Provided, however, such reasonable time for filing shall not be more than 180 days.

(d) Maintenance, repair or replacement.

- (1) Any modification or repair of a storage system, other than minor repairs or emergency repairs, shall be in accordance with plans to be submitted to the City Manager 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.

Sec. 9.42. Exemptions.

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

- (a) The transportation of any hazardous substance through either or both the primary or secondary well field protection zone, provided the transporting vehicle is in transit.
- (b) Agricultural uses, except that said uses shall comply with F.S. § 487.011 et seq., the Florida Pesticide Law and the Florida Pesticide Application Act of 1974 and F.A.C. 5E-2.001 et seq. and 5E-9.001 et seq. and F.A.C.
- (c) The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.
- (d) Fire, police, emergency medical services and essential utility services.
- (e) Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.
- (f) Office uses, except for the storage, handling or use of hazardous substances as provided for in applicable administrative codes.
- (g) Repairing or maintaining any facility or improvement on lands within the primary or secondary well field protection zone.

- (h) Storage tanks which are constructed and operated in accordance with the storage tanks regulations as set forth in F.A.C. ch. 17-61, or its successor, F.A.C. ch. 17-761.
- (i) Geotechnical borings.
- (j) Residential activities.

Sec. 9.43. Modification of requirements.

- (a) Any person affected by this division may petition the City Manager for modification from the prohibitions and monitoring requirements of this division; provided that the person demonstrates by a preponderance of competent, substantial evidence that special or unusual circumstances and adequate technology exists to isolate the facility or activity from the potable water supply in the event of a spill. In granting or denying modification, the City Manager shall consider the following criteria:
 - (1) Hazardous substances inventory;
 - (2) Containment;
 - (3) Emergency collection devices;
 - (4) Emergency plan;
 - (5) Daily monitoring;
 - (6) Equipment maintenance;
 - (7) Reporting of spills;
 - (8) Potable water well monitoring;
 - (9) Groundwater monitoring;
 - (10) Alterations/expansions;
 - (11) Reconstruction after catastrophe (fire, vandalism, flood, explosion, collapse, wind, war or other);
 - (12) Other criteria, as applicable to groundwater protection issues.
- (b) The City Manager may attach any appropriate conditions and safeguards which are necessary to protect the well field pursuant to such modified requirements.

Sec. 9.44. Well field protection zone permits.

- (a) Except as provided in sections 9.31 and 9.32, no person shall construct, modify, install or replace a hazardous substance storage system or component thereof within a primary or secondary potable well field protection zone without obtaining a well field protection zone permit, in accordance with the provisions of this division.
- (b) Pursuant to section 9.31, under no conditions shall a person allow the discharge of a hazardous substance into the soils, groundwater or surface water within said zones.
- (c) An applicant is encouraged to arrange a preapplication conference with the City Manager, to determine the location of any existing or proposed well field protection zones prior to submitting a formal application.

Sec. 9.45. Application procedures and requirements.

- (a) Where a development is being processed under Chapter 3 of this code or this division and a well field protection permit is required, the information and exhibits in subsections (b)(1) through (8) of this section shall be provided with the preliminary plat or the final site plan application for concurrent review.
- (b) An application for a well field protection zone permit not being processed concurrently with an application pursuant to Chapter 3 of this code or this division shall be submitted in the manner described herein on the forms prescribed by the City Manager with the following information and applicable documents:
 - (1) Name, address and phone number of the property owner, operator and/or agent.

- (2) Signature of the agent or owner.
 - (3) Legal description of the property, including the tax parcel number.
 - (4) A survey or scale drawing of the property, if required by the City Manager, identifying existing structures, adjacent streets, water bodies and all potable water supply wells located within 1,000 feet of the proposed hazardous substance storage area.
 - (5) A description of the proposed activity at the proposed location.
 - (6) Construction plans and specifications for the hazardous substance storage system, including, but not limited to, details of tanks, conveyance and pumping systems, secondary containment, leak detection, over-fill protection and access, prepared by a professional engineer licensed by the state.
 - (7) A list of all known hazardous substances that may be utilized, generated and/or stored at the described property. This shall include, but not be limited to, any substance described in section 9.29.
 - (8) Other information which the City Manager may reasonably require.
- (c) The application, with all applicable documents and a nonrefundable processing fee, shall be submitted to the City Manager.
 - (d) Three copies of the required documents shall be submitted with the application. The documents shall meet the requirements of this Code.
 - (e) The City Manager shall determine the acceptance of the application within three days of filing. If the application is determined to be incomplete, it shall be returned to the applicant. If the application is determined to be complete, it shall be accepted and the City Manager shall transmit it to the environmental management staff.
 - (f) Upon receipt, the environmental management staff shall review the application, conduct a preliminary site inspection notifying the applicant prior to said inspection and make a determination of approval, approval with conditions or denial within 20 working days of acceptance. If the application meets all of the requirements of this Code, it shall be approved. Upon such approval the environmental management staff shall return the application to the City Manager. If the application is denied, it shall be returned to the City Manager, with the reasons for denial noted thereon.
 - (g) Provided, however, upon receipt of an accepted application, if the environmental management staff determines that the proposed activity fails to meet the minimum requirements of this division, or if additional information is required, a request will be made to the applicant to provide the additional information and modify the application.
 - (h) If the applicant fails to make the necessary modifications or provide the additional information within 60 days, then the City Manager shall deny the permit. If the necessary modifications are made or the additional information is provided, the City Manager shall approve the permit within 20 days from the receipt of the additional information.
 - (i) The City Manager shall issue the permit or denial immediately upon receiving the determination of the environmental management staff.

Sec. 9.46. Standards for review.

In determining whether the proposed development shall be approved under the provisions of this division, the City Manager shall consider the requirements of this division, together with the following criteria:

- (a) Whether, and the extent to which, a proposed development must be located within the well field protection zone in order to perform the development's basic functions.
- (b) The impacts of the proposed development on the well field protection zones in combination with other developments which have been permitted or constructed immediately adjacent to the secondary well field protection zone.
- (c) The protection afforded after development is completed and/or any adverse conditions caused by the development.
- (d) Whether the proposed development is consistent with the policies in the Land Development Code and the Comprehensive Plan.

Sec. 9.47. Issuance of permits; conditions.

- (a) A permit shall specify the 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 division are met. Commencement of construction of a facility under a well field protection permit shall be deemed acceptance of all conditions specified in the permit.
- (b) No hazardous substance storage, handling or use may be commenced unless the owner or operator demonstrates that the system has been constructed in substantial conformity with the permit.

Sec. 9.48. Closure of facilities.

- (a) Upon closure of a hazardous substance storage systems for any reason, the facility owner or operator shall file an application with the City Manager of intention to close the storage system. Said application shall be processed as provided in section 9.34. By signing the well field protection permit application, the owner is held responsible to adhere to the closure procedures outlined in this section. An application to close a hazardous substance storage facility shall include the following:
 - (1) A schedule of events to complete the closure of this activity which does or did store, handle, use, or produce hazardous substances. As a minimum, the owner/applicant shall address the following:
 - a. Disposition of all hazardous substances and contaminated containers.
 - b. Cleanup of the activity and environs to preclude leaching of hazardous substances into the aquifer.
 - c. Certification by the City Manager that disposal and cleanup have been completed in a manner acceptable to the City Manager. Certification may be waived if the applicant provides evidence to the City Manager that all of the following conditions apply to the subject land use facility or activity:
 - i. The entire operation is maintained inside the building of the facility.
 - ii. The method of removing operating waste is not a septic tank, sewer main, or floor drain.
 - iii. There is no evidence of spills permeating floors or the environs.
 - iv. There are not previous outstanding violations of any regulatory agency concerned with hazardous, industrial or special waste.
 - v. There is not evidence of past contamination in the public drinking water well associated with a facility located in the primary or secondary protection zones.
 - vi. The applicant shall provide a sworn statement that disposal and cleanup have been completed in a manner acceptable to the City Manager.
 - (2) Reserved.
- (b) The environmental management staff shall inspect the facility to determine whether or not the requirements of this section have been met.

Sec. 9.49. Fee resolution.

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

Sec. 9.50. Hazardous substance inspection program to comply with federal law.

The department of fire services shall implement a hazardous substance inspection program for the City. Said inspection program shall ensure compliance with 40 CFR 260.00—265.00. This regulatory program will be in addition to the requirements of this division.