

# CHAPTER 8. ENVIRONMENTAL PROTECTION

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## **CHAPTER 8. ENVIRONMENTAL PROTECTION**

### **ARTICLE 1. GENERAL**

#### **Sec. 8.1.1. PURPOSE.**

The City is committed to the protection of environmental resources through the adoption of the Comprehensive Plan and more specifically the adoption of the Conservation Element of the Plan. Some of the issues addressed in this Element include surface water, water wells, lakes, fisheries and wetlands. Other issues contained in the Element are addressed as appropriate in other Chapters of the Land Development Regulations. This Chapter provides the regulations necessary to implement stormwater management systems, water well protection, impervious surface coverage, and protection of lakes, wetlands, threatened or endangered species habitat, conservation area, native ecological communities and water shortages.

### **ARTICLE 2. STORMWATER MANAGEMENT.**

#### **Sec. 8.2.1. STORMWATER MANAGEMENT SYSTEMS.**

8.2.1.1. Stormwater management systems shall be installed by the developer which the City (consulting) engineer certifies as adequate to handle a minimum rainfall of 5.5 inches per hour without damage to the facilities and shall be governed by the City Drainage Plan. When existing off-site drainage facilities would be adversely impacted by the proposed discharge, the developer shall install and pay for such additional improvements as may be required. Where additional capacity is required to handle the needs of the general stormwater system of the City, costs of such extra capacity shall be prorated between the developer and other interests in a manner acceptable to the City.

8.2.1.2. Stormwater management systems shall be designed so that the peak predevelopment discharge rate at the point of stormwater discharge is not exceeded by the peak post-development rate during a 25 year - 24 hour storm event, having a total rainfall of 8.5 inches as required by the Water Management District (WMD). Detention and/or retention with filtration of the

first ½ inch runoff or the runoff from the first inch of rainfall shall be provided as required by Department of Environmental Regulation (DER).

- 8.2.1.3. All installations shall be in conformance with all applicable WMD and DER rules. The developer shall furnish the City with approved stormwater permits and/or exemptions prior to commencing any site work. However, if the developer can produce written evidence to the City Staff demonstrating that an accepted application to either or both of these agencies has been in process for more than 120 days but with no permit issued, and in the opinion of the City (consulting) engineer, all the developer's construction plans are in order and meet the requirements of the Land Development Regulations, then the City Commission may waive this requirement, if in their opinion the public health, safety and welfare would not be impaired by such action.
- 8.2.1.4. If on-site retention with no positive outfall is to be provided, the stormwater management system shall be designed to retain all runoff from a 100 year - 72 hour storm event (13.5 inches in a continuous 72 hour period) without flooding of buildings. In addition, the plat or drainage plan shall indicate that no positive outfall is provided and that, if applicable, some lots may flood during extreme storm events.
- 8.2.1.5 Along with preliminary construction plans, a drainage plan and a complete set of drainage calculations shall be provided the City for review by the City (consulting) engineer. The drainage plan shall include all areas that drain into, or through, the proposed subdivision or development and the subdivision or development outfall system. The diameter, types, sizes, and flow lines of all existing and proposed storm sewer and cross-drain pipes shall be shown, along with the inlets and manholes. The drainage areas that drain into each inlet shall be depicted, along with the drainage areas to the nearest 1/10th of an acre and the "C" factor used. In addition, the drainage plan shall indicate flood plain areas as indicated on the FEMA Maps, locations and boundaries of wetland areas or waters of the State; locations and results of soils borings and percolation tests; and an SCS soil map with soil classifications and descriptions of characteristics.
- 8.2.1.6 All retention areas shall be designed based on a SCS Type II Florida Modified storm distribution with antecedent moisture condition per WMD regulations.
- 8.2.1.7 Cross drains shall be designed for a 10 year storm for minor cross drains and collector road culverts and a 25 year storm for arterial road culverts. All culverts and cross drains shall be designed so that under full flow conditions, the hydraulic grade line is at least one foot below the gutter profile. When pipes are sized based on partial depth flows, the depth of flow shall be not more than 2/3 of the pipe diameter at velocities exceeding 15

feet per second. All pipes shall be designed for a minimum velocity of 2.5 feet per second.

8.2.1.8 All construction shall be in accordance with City specifications and standard details contained in the Administration and Procedures Manual and all structures shall be in accordance with FDOT specifications. The storm sewer system may empty into an existing storm sewer system or any other outlet approved by the City (consulting) engineer at a rate not to exceed the peak predevelopment rate. Overland flow over roadways shall not be permitted.

8.2.1.9 Any new construction that is proposed to drain to a FDOT drainage system shall be required to secure a FDOT drainage permit and submit such to the Administrative Official prior to the issuance of a development order.

#### **Sec. 8.2.2. SUBDRAINAGE.**

8.2.2.1 Subdrainage facilities shall be required in "wet soil" areas if the City (consulting) engineer determines that the bottom of any base material used for foundations or streets would otherwise be less than one foot above highest anticipated groundwater levels. Such decisions shall be based on SCS soil surveys, wet season water table determined by field borings or area history of flooding. Soil-cement base may be used in lieu of subdrains when approved by the City (consulting) engineer. Subdrainage facilities shall conform to FDOT specifications and standards.

#### **Sec. 8.2.3. STORMWATER QUALITY MANAGEMENT**

8.2.3.1. For enforcement purposes, the City has adopted by reference Polk County Ordinance No. 93-06, Polk County Stormwater Management.

8.2.3.2. For enforcement purposes, the City has adopted a stormwater management program.

### **ARTICLE 3. WATER WELL PROTECTION**

#### **Sec. 8.3.1. INTENT.**

- 8.3.1.1 The intent and purpose of this Article is to protect and safeguard the health, safety and welfare of the residents and visitors of the City by providing criteria for regulating and prohibiting the use, handling, production and storage of certain deleterious substances which may impair present and future public potable water supply wells and wellfields.
- 8.3.1.2. The generic substance list contained in Chapter 11 of this Administrative and Procedures Manual as Exhibit A is provided for informational purposes and may be revised from time to time by the City Commission. Persons using, handling, producing, or storing a substance on the generic list may be using, handling, producing or storing a regulated substance as defined by this Article and, therefore, may be subject to the requirements of this Article. Persons unsure as to whether they are subject to this Article may wish to consult with the City.
- 8.3.1.3. All provisions of this Article shall be effective within the corporate limits of the City and shall set restrictions, constraints and prohibitions to protect present and future public potable water supply wells and well fields from degradation by contamination of deleterious substances.
- 8.3.1.4. All institutional, commercial and/or industrial land uses with high pollution potential shall be prohibited from locating within any water well cone of influence. Use of any materials contained in the above referenced generic substance list shall be a determining factor in whether such use is or is not prohibited.

**Sec. 8.3.2. DEFINITIONS.**

In addition to the definitions contained in Chapter 4 of the Land Development Regulations, the following definitions apply within this Article:

- 8.3.2.1. **AQUIFER.** A groundwater-bearing geologic formation or formations that contain enough saturated permeable material to yield significant quantities of water.
- 8.3.2.2. **CLOSURE PERMIT.** That permit required by activities which must cease operation pursuant to the provisions of Sec. 8.3.4., the criteria for which are set forth under Sec. 8.3.5.
- 8.3.2.3. **COMPLETED APPLICATION.** An application which includes all materials and documents which are necessary to support the application and which has been accepted as complete by the City Staff.

- 8.3.2.4. CONE OF DEPRESSION. An areas of reduced water levels which results from the withdrawal of groundwater from a point of collective source such as well, wellfield, or dewatering site. The areal extent and depth of the depression is a function of the hydraulic properties of the aquifer, the pumpage rates and recharge rates.
- 8.3.2.5. EMERGENCY HAZARDOUS SITUATION. Exists whenever there is an immediate and substantial danger to human health, safety or welfare, or to the environment.
- 8.3.2.6. EPA. United States Environmental Protection Agency.
- 8.3.2.7. EXFILTRATION SYSTEM. Any gallery, perforated or "leaky" pipe or similarly designed structure which is used to dispose of untreated stormwater by allowing the routed water to percolate by subsurface discharge directly or indirectly into the groundwater.
- 8.3.2.8. FACILITY. Main structures, accessory structures and activities which store, handle, use or produce regulated substances. Where contiguous facilities exist and such facilities are separate in the nature of the business, they shall remain separate under this Article.
- 8.3.2.9. GENERIC SUBSTANCE LIST. These general categories of substances set forth in exhibit A attached hereto and incorporated herein.
- 8.3.2.10. GROUNDWATER. Water that fills all the unblocked voids of underlying material below the ground surface, which is the upper limit of saturation, or water which is held in the unsaturated zone by capillarity.
- 8.3.2.11. LABORATORY. A designated area or areas used for testing, research, experimentation, quality control, or prototype construction, but not used for repair or maintenance activities (excluding laboratory equipment), the manufacturing of products for sale, or pilot plant testing.
- 8.3.2.12. ONE-FOOT DRAWDOWN CONTOUR. The locus of points around a well or wellfield where the free water elevation is lowered by one foot due to a specified pumping rate of the well or wellfield.
- 8.3.2.13. OPERATING PERMIT. The permit required of certain activities under Sec. 8.3.4. to operate the criteria for which are set forth under Sec. 8.3.5.
- 8.3.2.14. REGULATED SUBSTANCES.

8.3.2.14.1. Those deleterious substances and contaminants, including degradation and interaction products, which because of quality, concentration, or physical, chemical (including ignitability, corrosivity, reactivity and toxicity) or infectious characteristics, radio activity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence (nondegradability) in nature, or any other characteristic, that may cause significant harm to human health and environment (including surface water and groundwater, plants and animals).

8.3.2.14.2 Regulated substances shall include but are not limited to those substances set forth in the lists, as amended from time to time, entitled, List of Hazardous Wastes (40 CFR Part 261, Subpart D), 40 CFR, Part 261, Appendix VIII-Hazardous constituents, and EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA (40 CFR 302, effective July 3, 1986).

However, this Article shall only apply whenever the aggregate sum of all quantities of any one regulated substance at a given facility/building at any one time exceeds 5 gallons where the substance is a liquid, or 25 pounds where the substances is a solid.

This Article shall also apply if no single substance exceeds the above referenced limits but the aggregate sum of all regulated substances present at one facility/building at any one time exceeds 100 gallons if the substances are liquids, or 500 pounds if the substances are solids.

Where regulated substances are dissolved in or mixed with other nonregulated substances, only the actual quantity of the regulated substance present shall be used to determine compliance with the provisions of this article. Where a regulated substance is a liquid, the total volume of the regulated substance present in a solution or mixture of the substance with other substances shall be determined by volume percent composition of the regulated substance, provided that the solution or mixture contain the regulated substance does not itself have only of the characteristics described in paragraph 8.3.2.14.1. above.

8.3.2.14.3. This Article shall apply to all underground storage facilities for petroleum products which are not regulated by the state pursuant to Section 376.317, Florida Statutes, and Chapter 17-61, Florida Administrative Code.



- 8.3.2.15. **SPILL.** The unpermitted release or escape of a regulated substance, irrespective of the quantity thresholds in paragraph 8.3.2.14.2. above, directly or indirectly, to soils, surface waters or groundwaters.
- 8.3.2.16. **WELL.** Any excavation this is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is to conduct ground water from a source beneath the surface by pumping, natural flow or any other method.
- 8.3.2.17. **WELLFIELD.** An area of land which contains one or more than one well for obtaining water.
- 8.3.2.18. **CONES OF INFLUENCE.** Cones delineated by iso-travel time contours and the one-foot drawdown contour within cones of depression of wells which obtain water from the unconfined or surficial aquifer system. These cones are calculated, based on the rate of movement of groundwaters in the vicinity of wells at a specified pumping rate.
- 8.3.2.19. **CONE OF INFLUENCE LINE ON MAP.** Lines delineated around water wells on the Future Land use Map showing the location on the ground of the outer limits of cones of influence for present and future public potable water supply wells and wellfields.

### **Sec. 8.3.3. CONE OF INFLUENCE ON FUTURE LAND USE MAP.**

- 8.3.3.1. The cone of influence on the Future Land Use map is incorporated herein and made apart of this Article. Any amendments, additions or deletions to the cone of influence on the map shall be approved by the City Commission following written notice, by the City to property owners within the area covered by the amendment, addition or deletion, and after public hearing.
- 8.3.3.2. The cone of influence lines are based upon travel time contours and one- foot drawdown contours. They are generated using a contaminant transport computer model that simulates pollutant movement using particles released around wells in an inverted head/velocity field.
- 8.3.3.3. The cones of influence lines on the Future Land Use Map shall be reviewed at least every 2 years. However, failure to conduct such review shall not affect the validity of the existing approved maps. The basis for updating the lines may include but is not limited to the following:

- 8.3.3.3.1. Changes in the technical knowledge concerning the applicable aquifer.
- 8.3.3.3.2. Changes in pumping rate of wellfields.
- 8.3.3.3.3. Wellfield reconfiguration.
- 8.3.3.3.4. Designation of new wellfields.

**Sec. 8.3.4. RESTRICTION WITHIN CONE OF INFLUENCE.**

8.3.4.1. All nonresidential activities within the cone of influence which store, handle, use or produce any regulated substance are prohibited from doing so unless they qualify as a general exemption, obtain a special exemption, or receive an operating permit from the City which complies with the following conditions:

8.3.4.1.1. *Containment of regulated substances.* Leakproof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle 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 regulated substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than a sheltering only after approval of the design by the City Staff. These requirements shall apply to all areas of use, production and handling; to all storage areas; to loading and off-loading areas, and to above ground and underground storage areas. The containment devices and liquid collection systems shall be certified in the operating permit application by the professional engineer registered or professional geologist licensed in the state.

8.3.4.1.2. *Emergency collection devices.* Vacuum suction devices, absorbent scavenger materials or other devices approved by the department shall be present on the site or available within 2 hours by contract with a cleanup company approved by the City, in sufficient magnitude so as to control and collect the total quantity of regulated substances present. To the degree feasible, emergency containers shall be present and of such capacity as to hold the total quantity of regulated substances plus absorbent material. The presence of such

emergency collection devices shall be certified in the operating permit application for existing activities. Such certification for new activities shall be provided to the City prior to the presence of regulated substances on the site. Certification shall be provided by a professional engineer registered or professional geologist licensed by the State.

8.3.4.1.3. *Emergency plan.* An emergency plan shall be prepared and filed with the operating permit application indicating the procedures which will be followed in the event of spillage of a regulated substance so as to control and collect all such spilled material in such a manner as to prevent it from reaching any storm or sanitary drains or the ground.

8.3.4.1.4. *Inspection.* A responsible person designated by the permittee who stores, handles, uses or produces the regulated substances shall check on every day of operation, for breakage or leakage of any container holding the regulated substances. Electronic sensing devices may be employed as part of the inspection process, if approved by the department, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree which reasonably assures the City that breakage or leakage can be detected by the inspection. Monitoring records shall be kept and made available to the City at all reasonable times for examination.

8.3.4.1.5. *Proper and adequate regular maintenance of containment and emergency equipment.* Procedures shall be established for the quarterly in-house inspection and maintenance of containment and emergency equipment. Such procedures shall be in writing, a regular checklist and schedule of maintenance shall be established, and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by the City.

8.3.4.1.6. *Reporting of spills.* Any spill of a regulated substance shall be reported by telephone the County Health Department and the City within 24 hours of discovery of the spill. Cleanup shall commence immediately upon discovery of the spill. A full written report, including the steps taken to contain and clean up the spill, shall be submitted to the City within 15 days of discovery of the spill.

8.3.4.1.7. *Monitoring for regulated substances in the potable water well.* Arrangements shall be made with the Public Works Department to establish a semiannual schedule of raw water analysis unless

sampling results indicate contamination, in which case the City shall require an increased sampling schedule. The analysis shall be for all substances which are listed on the operating permit. The analytical reports shall be prepared by a state-certified laboratory, certified for the applicable analyses. It shall be the responsibility of the Public Works Department to provide for the sampling and analyses. Samples shall be taken by the state-certified laboratory performing the analyses, or its authorized representative. A reference set of raw water analyses shall be completed for each well for which a cone of influence line has been established. These analyses shall be completed within 185 days after the effective date of the LDR, and a copy shall be forwarded to the Administrative Official within 14 days of completion. These analyses shall address inorganic priority pollutants and organic priority pollutants. The analytical reports shall be prepared by the state-certified laboratory, certified for the applicable analyses.

8.3.4.1.8. *Monitoring for regulated substances in groundwater monitoring wells.* Groundwater monitoring well(s) shall be provided in a manner, number and location approved by the City. Except for existing wells found by the City to be adequate for this provision, the required well or wells shall be installed by the state-licensed water well contractor. Samples shall be taken by the state certified laboratory performing the analyses, or its authorized representative. Analytical reports prepared by a state-certified laboratory of the quantity present in each monitoring well of the regulated substances listed in the activity's operating permit shall be filed at least annually, or more frequently, as determined by the department, based upon site conditions and operations.

8.3.4.1.9. *Alterations and expansion.* The City shall be notified in writing prior to the expansion, alteration or modification of an activity holding an operating permit. Such expansion, alteration or modification may result from increased square footage of production or storage capacity, or increased quantities of regulated substances, or changes in types of regulated substances beyond those square footages, quantities and types upon which the permit was issued. Excluded from notification prior to alteration or modification are changes in types of regulated substances listed in the permit based upon the generic substance list as Chapter 11 of the Administration and Procedures Manual. Should a facility add new regulated substances which individually are below the nonaggregate limits, it shall notify the City on the annual basis of the types and quantities of such substances added and the location of the use, handling, storage and production of said substances. Any such expansion, alteration or modification shall

be in strict conformity with this Article. Further, except as provided herein, any existing operating permit shall be amended to reflect the introduction of any new regulated substances resulting from the change. However, the introduction of any new regulated substance shall not prevent the revocation or revision of any existing operating permit if, in the opinion of the City, such introduction substantially or materially modifies, alters or affects the conditions upon which the existing operating permit was granted or the ability to remain qualified as a general exemption, if applicable, or to continue to satisfy any conditions upon which the existing operating permit was granted or the ability to remain qualified as a general exemption, if applicable, or to continue to satisfy any conditions that have been imposed as part of a special exemption, if applicable. The City shall notify the permittee in writing within 60 days of receipt of the permittee's notice that the City proposes to revoke or revise the permit and stating the grounds therefore.

8.3.4.1.10. *Reconstruction after catastrophe.* Reconstruction of any portion of a structure or building in which there is any activity subject to the provisions of this regulation which is damaged by fire, vandalism, flood, explosion, collapse, wind, war or other catastrophe shall be in strict conformity with this Article.

8.3.4.1.11. *Operating permit.* All existing nonresidential activities situated in the cone of influence which use, handle, store or produce regulated substances shall file an application for an operating permit within 90 days or a closure permit application or special exemption application within 120 days of the receipt of written notice from the City. The permit application shall be prepared and signed by a professional geologist licensed by the State. Within 30 days of receipt of the notice, the owner or operator shall file with the City proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within 60 days of filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within 12 months of the denial and an application for a closure permit shall be filed with the City within 120 days of the denial of the operating permit.

8.3.4.2. **OTHER REQUIREMENTS AND LIABILITIES.** A notice to cease a permit or exemption issued under this Article shall not relieve the owner or operator of the obligation to comply with any other applicable federal, State, regional or City regulation, rule, ordinance or requirement. Nor shall the notice, permit or exemption relieve any owner or operator of any liability for violation of such regulations, rules, ordinances or requirements.

**8.3.4.3. REQUIREMENTS FOR SANITARY SEWERS AND EXFILTRATION SYSTEMS.**

8.3.4.3.1. All new or replacement installations of sanitary sewer mains in the cone of influence of a public drinking water wellfield shall be constructed to force main standards.

8.3.4.3.2. No new exfiltration system shall be constructed in the cone of influence of a public drinking water wellfield.

**Sec. 8.3.5. PERMITS.**

**8.3.5.1. WELLFIELD PROTECTION PERMITS.**

8.3.5.1.1. This section provides the requirements and procedures for the issuance by the City of operating and closure permits required by this Article.

8.3.5.1.2. An application which satisfies the requirements of this section shall be approved and a permit issued. In addition to the failure to satisfy these requirements, the City may deny a permit based on repeated violations of this Article.

8.3.5.1.3. An operating permit shall remain valid provided the permittee is in compliance with the terms and conditions of the permit.

8.3.5.1.4. Permittees shall not be required to pay annual renewal fees until October 1, 1992. Beginning October 1, 1992, all current and future permittees are subject to an annual renewal license fee as stated in 8.3.5.3. Notification the City under 8.3.4.1.9. is due with the renewal fee.

8.3.5.1.5. The City shall have the right to make inspections of facilities at reasonable times to determine compliance with this Article.

8.3.5.1.6. All of the facilities owned and/or operated by one person when these structures and activities are located on contiguous parcels of property, even where there are intervening public or private roads, may be covered under one permit.

**8.3.5.2. PERMIT APPLICATIONS.**

8.3.5.2.1. *Operating permit.* All applications, as a minimum, shall provide the following information:

8.3.5.2.1.1. A list of all regulated substances and substances on the generic substance list which are to be stored, handled, used or produced in the nonresidential activity being permitted including their quantities.

8.3.5.2.1.2. A detailed description of the nonresidential activities that involve the storage, handling, use or production of the regulated substances indicating the unit quantities in which the substances are contained or manipulated.

8.3.5.2.1.3. A description of the containment, the emergency collection devices and containers, and emergency plan that will be employed to comply with the restrictions required as set forth above.

8.3.5.2.1.4. A description of the daily monitoring activities that have been or will be instituted to comply with the restrictions as set forth above.

8.3.5.2.1.5. A description of the maintenance that will be provided for the containment facility, monitoring system, and emergency equipment required to comply with the restrictions as set forth above.

8.3.5.2.1.6. A description of the groundwater monitoring wells that have been or will be installed, other pertinent well construction information, and the arrangements which have been made or which will be made for certified analyses for specified regulated substances.

8.3.5.2.1.7. Evidence of arrangements made with the Public Works Department for sampling analysis of the raw water from the potable water well.

8.3.5.2.1.8. An agreement to indemnify and hold the City harmless from any and all claims, liabilities, causes of action, or damages arising out to the issuance of the permit. The City shall provide reasonable notice to the permittee of any such claims.

8.3.5.2.1.9. The application for the operating permit shall be filed with the City within 90 days of receipt of written notification from the City.

8.3.5.2.2. *Closure permit.* Closure permit applications shall provide the following information:

8.3.5.2.2.1. A schedule of events to complete the closure of an activity that does or did store, handle, use or produce regulated substances. As a minimum, the following actions shall be addressed:

8.3.5.2.2.1.1. Disposition of all regulated substances and contaminated containers.

8.3.5.2.2.1.2. Cleanup of the activity and environs to preclude leaching of unacceptable levels of residual regulated substances into the aquifer.

8.3.5.2.2.1.3. Certification by a professional engineer registered or professional geologist licensed by the State that the disposal and cleanup have been completed in a technically acceptable manner. The requirement for certification by a professional engineer or professional geologist may be waived if the applicant provides evidence to the City that all of the following items are applicable:

8.3.5.2.2.1.3.1. The entire operation is maintained inside the building(s) of the facility.

8.3.5.2.2.1.3.2. The standard method of removing operating waste is not by septic tank, sewer mains or floor drains.

8.3.5.2.2.1.3.3. There is no evidence of spills permeating floors or environs.

8.3.5.2.2.1.3.4. There are no outstanding or past notices of violation from any regulatory agency concerned with hazardous, industrial or special waste.

8.3.5.2.2.1.3.5. There is no evidence of past contamination in the public drinking water well(s).



8.3.5.2.2.1.3.6. The applicant shall provide a sworn statement that disposal and cleanup have been completed in a technically acceptable manner.

8.3.5.2.2.1.4. An appointment for an inspection by the City.

8.3.5.2.2.1.5. An agreement to indemnify and hold the City harmless from any and all claims, liabilities, causes of action or damages arising out of the issuance of the permit. The City shall provide reasonable notice to the permittee of any such claims.

8.3.5.2.2.2. The issue of well configuration shall be evaluated by the City as an alternative to a closure permit during the permit application process. Should the City intend to reconfigure a wellfield and the configuration no longer subjects a facility to the cone of influence requirements, the City may issue an operating permit providing conditions under which the facility may continue to operate.

8.3.5.2.2.3. The Department of Environmental Regulation and the Polk County Health Department shall be advised in writing of each closure permit application.

8.3.5.2.3. *Permit conditions.* The permit conditions shall ensure compliance with all the prohibitions, restrictions and requirements as set forth in this Article. Such conditions may include but not be limited to monitoring wells, periodic groundwater analysis reports, and compliance schedules. Such conditions may also include requirements in a closure permit to reduce the risk in the interim of contamination of the groundwaters, taking into account cost, likely effectiveness and degree of risk to the groundwater.

8.3.5.2.4. *Bond required.* Except as provided in 8.3.5.2.4.5. below, no permit herein required shall be issued unless there is filed at the time of application, except in the case of an application by a political subdivision or agency of the State, a cash bond, permit bond with a corporate surety or letter of credit in the amount required to assure compliance with the requirement of this Article.

8.3.5.2.4.1. The permittee will operate its nonresidential activities and/or closure of such nonresidential activities, as applicable, in accordance with the conditions and requirements of this Article and permits issued hereunder.

8.3.5.2.4.2. The permittee shall reimburse the City in accordance with paragraphs 8.3.5.2.1.8, and 8.3.5.2.5. of this subsection, 8.3.5.2.4.2. for any and all expenses and costs which the City incurs as a result of the permittee's failing to comply with the conditions and requirements of this Article.

8.3.5.2.4.3. Before a bond or letter of credit is accepted by the City as being in compliance with this Section, the bond or letter of credit shall be reviewed and approved by the City Attorney and shall be filed with the City Clerk. A corporate bond shall be executed by a corporation authorized to do business in the State as a surety. A cash bond shall be deposited with the City which shall give receipt therefore.

8.3.5.2.4.4. The bond or letter of credit required by this Section shall be kept in full force and effect for the term of the permit and for one year after voluntary cessation of activities permitted hereunder, expiration, or revocation of the permit.

8.3.5.2.4.5. No bond or letter of credit is required for issuance of a permit for the following:

8.3.5.2.4.5.1. Closure of a facility, provided that the conditions listed in paragraph 8.3.5.2.2.1.1. for waiver of certification by an engineer or geologist are applicable.

8.3.5.2.5. *Cleanup and reimbursement.* Any person subject to regulation under this Article shall be liable with respect to regulated substances emanating on from the person's property for all costs of removal or remedial action incurred by the City and damages for injury to, destruction of , or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss resulting from the release of a regulated substance as defined in this Article. Such removal or remedial action by the City may include but is not limited to prevention of further contamination of groundwater, monitoring, containment, and cleanup or disposal of regulated substances resulting form the spilling, leaking, pumping, pouring, emitting or dumping of any regulated substance or material which creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

8.3.5.3. FEE SCHEDULE.

8.3.5.3.1. *Operating permit fee.* The fee for an operating permit under this regulation shall be \$150.00. A fee of \$25.00 shall be charged if application for a permit or renewal is late. The operating permit fee shall be used to defray the cost of monitoring compliance with this Article.

8.3.5.3.2. *Closure permit fee.* The fee for a closure permit under this regulation shall be \$75.00.

8.3.5.3.3. *Permit transfer fee.* The fee for transfer of an operating permit or closure permit shall be \$50.00 to defray the cost of processing the transfer. Application for transfer permit is to be made within 60 days of transfer of ownership of the activity.

8.3.5.4. REVOCATION OR REVISION OF PERMIT OR GENERAL OR SPECIAL EXEMPTION.

8.3.5.4.1. Any permit issued under the provisions of this Article shall not become vested in the permittee. The City may revoke any permit issued by it by first issuing a written notice of intent to revoke (certified mail return receipt requested or hand delivery) if it finds that the permit holder:

8.3.5.4.1.1. Has filed or refused to comply with any of the provisions of this Article, including but not limited to permit conditions and bond requirements of subsection 8.3.5.2.4.4. of this section; or

8.3.5.4.1.2. Has submitted false or inaccurate information in this application; or

8.3.5.4.1.3. Has failed to submit operational reports or other information required by this Article; or

8.3.5.4.1.4. Has refused lawful inspection under subsection 8.3.5.1.5. of this Section.

8.3.5.4.2. The City may revise any permit pursuant to subsection 8.3.4.1.9. by first issuing a written notice of intent to revise (certified mail return receipt requested, or hand delivery).

8.3.5.4.3. In addition to the provisions of paragraphs 8.3.5.4.1. and 8.3.5.4.2. above, within 30 days of any spill of a regulated substance, the City shall consider revocation or revision of the permit. Upon such consideration, the City may issue a notice of intent to revoke or revise, or elect not to issue such notice. In consideration of whether to

revoke or revise the permit, the City may consider the intentional nature or degree of negligence, if any, associated with this spill, and the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

8.3.5.4.4. For any revocation or revision by the City of a special exemption or general exemption that requires an operating permit as provided under the terms of this Article, the department shall issue a notice of intent to revoke or revise which shall contain the intent to revoke or revise both the applicable exemption and the accompanying operating permit.

8.3.5.4.5. The written notice of intent to revoke or revise shall contain the following information:

8.3.5.4.5.1. The name and address of the permittee, if any, and property owner, if different.

8.3.5.4.5.2. A description of the facility which is the subject of the proposed revocation or revision.

8.3.5.4.5.3. Location of the spill, if any.

8.3.5.4.5.4. Concise explanation and specific reasons for the proposed revocation or revision.

8.3.5.4.5.5. A statement that "Failure to file a petition with the City Clerk within 20 days after the date upon which the permittee receives written notice of the intent to revoke or revise shall render the proposed revocation or revision final and in full force and effect."

8.3.5.4.6. Failure of the permittee to file a petition shall render the proposed revocation or revision final and in full force and effect.

8.3.5.4.7. Nothing in this Article shall preclude or be deemed a condition precedent to the City seeking a temporary or permanent injunction.

#### **ARTICLE 4. IMPERVIOUS SURFACES.**

**Sec. 8.4.1. PURPOSE.**

The City has determined, as a part of the Conservation Element of the Comprehensive Plan, that it is necessary to protect the existing recharge capabilities of the land areas within the corporate limits. The method utilized to implement this objective is to regulate the amount of impervious surfaces permitted on a site in order to provide for downward movement of water to replenish the aquifer.

**Sec. 8.4.2. DEFINITION.**

8.4.2.1. IMPERVIOUS SURFACE. A land surface which has been covered with a layer of material(s) or compacted sufficiently so that it is incapable of being penetrated or infiltrated by water. This material covering includes but is not limited to, principal buildings, sidewalks, walkways, driveways, accessory structures, pools and decks.

**Sec. 8.4.3. PERCENT OF COVERAGE.**

8.4.3.1. The maximum amount of impervious surface coverage for all land uses that can be placed on upland soils is hereby established by zoning district classifications as follows:

LF - Lake Front	NA
RS-1 - Single Family Residential	50%
RS-2 - Single Family Residential	50%
RS-3 - Single Family Residential	50%
RMH - Residential Manufactured Housing	55%
RG-1 - General Residential	55%
RG-2 - General Residential	55%
RIO - Residential, Office, Institutional	55%
CN - Neighborhood Commercial	70%
CG - General Commercial	70%
CH - Highway Commercial	65%
CBD - Central Business District	90%
LI - Industrial, Light Warehousing	70%
HI - Heavy Industrial	70%
OUA - Open Use Agriculture	20%

The percent of impervious surface coverage is stated by zoning district classification in Chapter 5 of the Land Development Regulations.

## **ARTICLE 5. LAKES AND FISHERIES PROTECTION**

### **Sec. 8.5.1 PROTECTION STANDARDS**

All natural lakes and water bodies within the City shall be protected as fishery areas under the provisions of this Article. The protection of fishery habitats, shall be accomplished by following the combined standards established within the Land Development Regulations. Measures to ensure surface water quality, erosion control and endangered or threatened species habitat preservation shall apply to the preservation of lakes and fisheries.

## **ARTICLE 6. CONSERVATION AND WETLANDS AREAS**

### **Sec. 8.6.1. CONSERVATION AND WETLAND AREAS**

Conservation and wetland areas are designated on the Future Land Use Map of the Comprehensive Plan.

#### **Sec. 8.6.1. GENERAL**

Conservation and wetland boundaries shall be determined by the competent compilation of relevant evidence collected by professional field survey methods to derive botanical, physical, geomorphologic and historic indicators compounded with the geographical proximity to the following areas:

- 8.6.1.1. Areas within the dredge and fill jurisdiction of the FDER as authorized by Chapter 403, Florida Statutes;
- 8.6.1.2. Areas within the jurisdiction of the Army Corps of Engineers as authorized by Section 10, River and Harbor Act; or
- 8.6.2.3. Areas within the jurisdiction of the Southwest Florida Water Management District pursuant to Section 40D-4 and 40D-40, Florida Administrative Code.

**Sec. 8.6.3. USES PERMITTED AND MAXIMUM GROSS DENSITY.**

Recreational land uses such as docks, nature trails and boardwalks, parks, and lake access. A residence for a park ranger or caretaker is permissible at one dwelling unit per twenty acres. Residential, commercial and industrial land uses are not permissible on lands designated Conservation.

**Sec. 8.6.2. PROTECTION**

8.6.2.1. IDENTIFICATION WITH THE SITE PLAN. Site plans submitted for development approval by the City shall be required to identify the extent and location of all conservation areas and wetlands upon or adjacent to the development site and provide measures that maintain their normal function and quality.

8.6.2.2. DREDGE AND FILL ACTIVITY. All dredge and fill activities are hereby prohibited within designated conservation and wetland areas except for necessary efforts to establish minimal access to a recreational area.

8.6.2.3. AREAS RECEIVING FILL. Areas of fill deposition shall only be permissible upon the least ecologically valuable portion of a parcel identified within the site.

8.6.2.4. PERMITS AND PLANS FOR DREDGE AND FILL ACTIVITY. All permits required from the Florida Department of Environmental Regulation and a site plan indicating the location and amount of dredge and/or fill shall be presented to the Administrative Official prior to any dredge and fill activity.

8.6.2.5. CONSERVATION AND WETLANDS AREA SETBACK. All built structures except boardwalks shall maintain a minimum setback of 50 feet measured landward from the delineated boundary of adjacent conservation areas and wetlands.

8.6.2.6 CONSTRUCTION. Construction within conservation and wetland areas shall occur with minimal disruption to the natural environment and abide by all related habitat protection standards.

**ARTICLE 7. THREATENED OR ENDANGERED SPECIES HABITAT**

**Sec. 8.7.1. CRITERIA FOR THE DETERMINATION OF HABITAT BOUNDARIES.**

It shall be the responsibility of the developer or landowner, the City and all effected regulatory agencies to establish to what extent natural habitats exist upon a site prior to development or site alteration activity.

**Sec. 8.7.2. ENDANGERED OR THREATENED SPECIES HABITAT.**

Areas harboring or supporting threatened or endangered species shall be delineated by standardized, in the field, assessments. Environmental assessments shall be performed in response to documented presence or sightings of the species and the fragility, size and ecological diversity of the proposed development site. Designation of a site as an area with threatened or endangered species shall only be determined by a qualified professional.

**Sec. 8.7.3. THREATENED AND ENDANGERED SPECIES HABITAT PROTECTION SURVEY.**

The City shall reserve the right to request a professionally prepared habitat survey of a site in the following conditions:

- 8.7.3.1. The City has documented evidence or reported sightings indicating the presence of endangered or threatened species upon a given site;
- 8.7.3.2. The proposed site has designated wetland, conservation or ecologically pristine habitats; or
- 8.7.3.3. The magnitude or remoteness of a site creates areas isolated from human encroachment in a sufficient concentration.

**Sec. 8.7.4. IDENTIFICATION WITHIN THE SITE PLAN**

Development plans submitted for site plan review shall be required to identify, via a professionally prepared biological survey, the extent and location of all habitat areas harboring or supporting endangered or threatened species within the proposed development site.

**Sec. 8.7.5. REQUIRED HABITAT MANAGEMENT**

Upon establishing a biological inventory of supporting habitat for threatened or endangered species present, special management programs shall be proposed for



implementation to promote the preservation of the species upon the site. Management programs shall use buffer zones, setbacks, conservation areas and other devices to preserve the habitat.

## **ARTICLE 8. NATIVE ECOLOGICAL COMMUNITIES.**

### **Sec. 8.8.1. NATIVE ECOLOGICAL COMMUNITIES.**

Native ecological communities shall be delineated by means similar to those used to determine areas harboring threatened or endangered species. However, criteria for evaluation shall vary by encompassing the entire environment versus a single species and its necessary ecosystem. The presence of wetlands or endangered or threatened species may increase the designation of the habitat boundary.

### **Sec. 8.8.2. VEGETATION SURVEY REQUEST.**

The City shall reserve the right to request a professionally prepared vegetation survey upon a site in the following conditions:

- 8.8.2.1. The magnitude or remoteness of a site creates areas isolated from human encroachment in a sufficient concentration.
- 8.8.2.2. On-site inspection reveals that 50% or more of the site contains a natural vegetative environment.
- 8.8.2.3. The proposed site is undeveloped and adjacent to an area protected from development due to environmental preservation efforts.
- 8.8.2.4. The City has documented evidence indicating the presence of native ecological communities upon a given site.

### **Sec. 8.8.3. IDENTIFICATION WITHIN THE SITE.**

Development plans submitted for site plan review shall be required to identify, via a professionally prepared biological survey, the extent and location of all native ecological communities within the proposed development site.

#### **Sec. 8.8.4. PROTECTION OF ECOLOGICAL COMMUNITIES.**

Ecological communities that are documented as existing in an ideal preservation condition by a qualified person shall be protected from all development activity if they are deemed a benefit to the health, safety and welfare of the community. Such communities shall include:

- 8.9.4.1. Sand scrub communities;
- 8.9.4.2. Climax coniferous and deciduous forest; and
- 8.9.4.3. Long-leaf pine flatwoods.

## **ARTICLE 9. WATER SHORTAGE.**

### **Sec. 8.9.1. GENERAL.**

The City finds that a water shortage exists within the City when a water shortage or water shortage emergency is declared to exist within the Auburndale area of Polk County by the Southwest Florida Water Management District, or declared to exist by the Administration Official because of local conditions.

### **Sec. 8.9.2. RESTRICTION OR CURTAILMENT OF WATER USES:**

Certain non-essential uses of water shall be restricted or curtailed during the existence of a water shortage or water shortage emergency. The following shall be unlawful:

- 8.9.2.1. The sprinkling, watering or irrigating of shrubbery, trees, lawns, ground covers, plants, vines, and gardens except on the days and between the hours established by the Southwest Florida Water Management District. This Article does not apply to irrigation for bona fide commercial agricultural purposes.
- 8.9.2.2. The escape of water through defective plumbing, which means to knowingly allow water to escape through a system that is in disrepair.
- 8.9.2.3. The washing of sidewalks, driveways, porches, exterior of homes, apartments or other outdoor surfaces.
- 8.9.2.4. The washing of business or industrial equipment and machinery, except as required for public health or to avoid direct damage to such equipment or machinery.
- 8.9.2.5. The operation of any outdoor ornamental fountain or other structure using water with or without a recirculation system.
- 8.9.2.6. The filling of swimming pools and wading pools not using a filter or recirculating system.
- 8.9.2.7. The washing of automobiles, trucks, trailers, railroad cars, mobile homes, campers, boats or any other type of mobile equipment, except at a business enterprise established for such purpose.
- 8.9.2.8. The use of water for dust control, except as required for public health.

