

# CHAPTER 7 – ENVIRONMENTAL AND CULTURAL RESOURCE PROTECTION

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## CHAPTER 7 - ENVIRONMENTAL AND CULTURAL RESOURCE PROTECTION

### Part I. Tree Protection, Landscaping, Buffers, and Irrigation.

#### Section 700. ~~Section 714.~~ Tree Protection.

##### 700.1. ~~714.1.~~ Purpose and Intent.

It is the intent of ~~the this~~ Section to regulate the removal, replacement, or relocation of trees within the County in order to preserve, protect and enhance valuable natural resources. By limiting the removal of existing trees, the need for open space irrigation will be reduced. Existing environmentally suitable native vegetation, plant communities shall be protected and incorporated into the site plan, wherever feasible.

##### 700.2. ~~714.2.~~ Application.

A. ~~714.2.1.~~ Generally. No person may remove, relocate, or otherwise destroy any tree or cause, allow, authorize, or assist in the removal, relocation or destruction of same without first obtaining a tree removal permit from the Planning Department Director. The application shall be reviewed by the Planning Department Director.

##### B. ~~714.2.2.~~ Exempted Activities.

1. Single Family. Trees located on any single family, ~~manufactured~~mobile home subdivision, ~~manufactured~~mobile home park, or duplex lot shall be exempt. This does not include any areas of common ownership within parks or subdivisions.
2. ~~714.2.2.1.~~ Trees on Agricultural or Mining Property. Any tree located on land zoned and utilized for agricultural or mining purposes, provided the removal, replacement, relocation, or destruction solely occurs in conjunction with the use of the premises for agricultural or mining purposes and does not occur in anticipation of development. All such clearing is subject to County, State and Local rules, protecting wetlands and other restricted habitat.
3. ~~714.2.2.2.~~ Trees in Approved Developments. Any trees which are located in a subdivision, development, or other project which has received County approval, provided that the removal, replacement, relocation or destruction of trees are specifically shown on the subdivision, development, or project plan approval, and provided that such plans have been reviewed and approved by the Planning Department Director.
4. ~~714.2.2.3.~~ Trees on Commercial Horticultural Premises. All trees and plants which are grown by a licensed plant or tree nursery or tree farm, provided that such trees and plants are planted and grown on the licensee's premises for the sale or intended sale to the general public in the ordinary course of business.
5. ~~714.2.2.4.~~ Trees Damaged by Natural Calamities. All trees which have been destroyed or substantially damaged by hurricane or other natural calamity or Act of God. ~~714.2.2.4.1.~~ The tree must be so damaged that it would require unreasonable costs to save it, or would be a hazard to human life or property.
6. ~~714.2.2.5.~~ Septic Fields. Area for septic fields [which] are required by the Manatee County/HRS/Public Health Unit.
7. ~~714.2.2.6.~~ Trees within the Rights-of-Way. Trees within the rights-of-way for the purpose of improvements, roadway widening, sidewalks and utility installations.
8. ~~714.2.2.7.~~ Unprotected Species. The prohibition in paragraph 700.2.A~~714.2.1.~~, above, shall not apply to the following unprotected species, and their removal from the site is encouraged. See also Section 605 and 701.4.E~~715.4(E).~~ However, if such species were originally installed as part of the required landscaping for a project, such trees may not be removed without a tree removal permit. The fee for this permit shall not apply to these cases.

Commented [LDI1]: [PLEASE SEE SEPARATE DOCUMENT FOR PEER REVIEW OF STAFF'S DRAFT FOR THIS SECTION]

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- a. ~~(a)~~ Broussonetia Papyrifera (Paper Mulberry);
- b. ~~(b)~~ Casuarianaceae (Australian Pine);
- c. ~~(c)~~ Enterolobium cyclocarpum (Ear Tree);
- d. ~~(d)~~ Melaleuca Leueadendra (Punk);
- e. ~~(e)~~ Melia Azedarach (Chinaberry Tree);
- f. ~~(f)~~ Schinus Terebinthifolius (Brazilian Pepper);
- g. ~~(g)~~ Rutaceae, Citrus (Citrus Tree);
- h. ~~(h)~~ Cinnamomum camphora (Camphor Tree);
- i. ~~(i)~~ Cupaniopsis anacardioides (Carrotwood);
- j. ~~(j)~~ Ficus microcarpa (Laurel fig);
- k. ~~(k)~~ Mimosa pigra (Catclaw Mimosa);
- l. ~~(l)~~ Sapium sebiferum (Chinese Tallow Tree);
- m. ~~(m)~~ Dalbergia sissoo (Indian Rosewood).

9. ~~714.2.2.8~~ *Normal Maintenance of Required Trees*. Maintenance and pruning of required canopy or understory trees is allowed in order to remove diseased or dead wood, remove hazardous limbs, remove or trim limbs that would obstruct vehicular movement, utility lines, or pedestrian traffic, remove double leaders or crossing limbs, or maintain or correct the size of the tree. Trimming to provide proper clearance from overhead utility lines shall be allowed; however, it shall not be allowed to significantly alter the natural form of the tree. Pruning that grossly alters the natural characteristic form of that species is not permitted, (e.g. topiary sculptures or "lollipop" shapes).
10. ~~714.2.2.9~~ *Degenerative Disease*. Removal of trees with terminal degenerative diseases shall be exempt from Section ~~700~~714.

**700.3. ~~714.3~~ Procedure.**

- A. ~~714.3.1~~ **Submission of Application**. A person desiring a tree removal permit shall submit a written application to the [Planning Department](#) Director. The application shall include the following information:
1. ~~714.3.1.1~~ *Site Plan*. An overall site plan including the approximate shape and dimensions of the lot or parcel of land, together with existing and proposed driveways, structures and improvements.
  2. ~~714.3.1.2~~ *Required Generalized Tree Inventory*. Each application for a tree removal permit shall be accompanied by a generalized tree inventory which shall consist of:
    3. ~~714.3.1.2.1~~ *Generalized Tree Inventory*. A generalized tree and vegetation inventory showing the approximate location and extent of vegetation and trees upon the site shall be provided no later than preliminary or final site plan (when a preliminary is not required). The inventory shall be based upon the most current available information. For non-residential and multi-family development, the inventory may be in the form of an aerial or a field survey, and shall be accompanied by photographs illustrating typical areas of trees. The generalized tree and vegetation inventory shall be prepared at the same scale as the site development plans or in some other manner which clearly illustrates the relationships between the areas of trees and the proposed site improvements. This inventory shall also include specifications regarding both the common and botanical names of all protected species.
  4. ~~714.3.1.3~~ *Location of Trees to be Removed*. The location of all trees which are proposed to be removed, replaced, or relocated including the limits of clearing. Subject to the [Planning Department](#) Director's approval, the limits of clearing shall generally include:
    - a. ~~714.3.1.3.1~~ *Streets*. Street Construction and necessary slope construction.
    - b. ~~714.3.1.3.2~~ *Easements*. Public service or utility easements and rights-of-way. This shall include area of utility line installation with any construction easements necessary for such installation and easements for

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maintenance access. These easements shall not be cleared prior to actual line installation.

- ~~c. 714.3.1.3.3. Building Area.~~ Building roof coverage and ancillary structure such as patios and porches plus twenty-five (25) feet on all sides for construction activity.
- ~~d. 714.3.1.3.4. Circulation, Recreation Areas.~~ Driveways, walkways, parking lots, and other land area necessary to the installation of the proposed development or use. Other necessary land area may include area for gardens, tennis courts, swimming pools, and lawn areas and other related structures or uses.
- ~~e. 714.3.1.3.5. Septic Fields.~~ Area for septic fields as required by the HRS/Manatee County Public Health Unit.
- ~~f. 714.3.1.3.6. Sediment Basins.~~ Only those trees within the area necessary for construction of the sediment basin, the area in which sediment will collect, and the area necessary for construction and maintenance of the basin shall be cleared of trees. Configuration of the basin shall utilize natural terrain as much as possible to minimize tree removal.
- ~~g. 714.3.1.3.7. Detention and Retention Basin.~~ Only those trees within the area necessary for construction of the detention pond and the area necessary for construction and maintenance of the pond shall utilize natural terrain as much as possible to minimize tree removal.
- ~~h. 714.3.1.3.8. Visibility Triangle.~~ See [Section 1002743](#).
- ~~5. 714.3.1.4. Protective Measures.~~ A statement explaining how any trees proposed for relocation and replanting as part of a development will be protected during the construction of the development. A plan detail indicating the location of protective barriers around trees to be protected shall also be provided.
- B. 714.3.2. Separate Tree Removal Permit Required.** When tree removal is occasioned by any proposed development that requires a site plan, preliminary subdivision plat, or final subdivision plat, the approved plan or plat shall constitute a tree removal permit. In all other cases, the application for a tree removal permit shall be on a form provided by the [Planning Department](#) Director.
- C. 714.3.3. Review of Application.** Upon receipt of the complete permit application, the [Planning Department](#) Director shall review the application and visit the site of the proposed development. Within a reasonable period of time, the [Planning Department](#) Director shall either approve or deny the application, and shall furnish the applicant a written statement of the reasons for any denial. Where tree removal is considered in conjunction with site plan or subdivision plat review, the [Planning Department](#) Director shall forward a copy of the written statement to the appropriate decision-making body with the application for subdivision or conditional use approval and any other relevant materials.
- D. 714.3.4. Tree Replacement Funds.** Any payments collected under Section [700.3.714.8](#) shall be deposited into the Tree Protection Trust Fund and are expressly designated for the replacement of trees or those incidental materials, i.e. mulch, irrigation mechanisms, required for those items to be planted. These funds shall not however be used for the support of existing trees. The application shall be accompanied by a tree removal permit fee in an amount to be prescribed by the Board.
- E. 714.4. Trust Fund.** There is hereby created a Tree Protection Trust Fund for the purpose of insuring that the funds collected pursuant to this Section are utilized as provided in Section [700.3.D714.3.4](#), Tree Replacement Funds.
- F. 714.5. Expenditure.** Any funds not expended or encumbered for planning, acquisition or planting by the end of the calendar quarter immediately following seven (7) years from the date of payment, shall be returned to the fee payer with interest at the passbook savings rate.
- G. 714.6. Extension.** The Board may by resolution, extend the date by which funds must be refunded by up to three (3) years. Such an extension shall be made upon a finding that within three (3) years, the planned replacement activities will be completed.
- H. 714.7. Standards.** The ~~Planning Department~~ Director shall not approve a tree removal permit application unless the plan will destroy no more existing trees than is reasonably necessary to achieve the proposed development. The [Planning Department](#) Director shall consider in this regard:

  - ~~1. 714.7.1. Necessity.~~ The extent to which the actual or intended use of the property is in accordance with the

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regulations of the zoning district in which the property is located and requires the destruction of trees.

- ~~2. 714.7.2.—~~ *Outstanding Quality of Tree or Plant Communities.* The desirability of preserving a tree or plant community by reason of its size, age, or some other outstanding quality, such as uniqueness, habitat importance, rarity or status as a landmark or species specimen.
  - ~~3. 714.7.3.—~~ *Environmental Effects.* The extent to which the area would be subject to increased water runoff and other environmental degradation due to the removal of the trees.
  - ~~4. 714.7.4.—~~ *Development Density.* The desirability of preserving tree cover and associated vegetation in densely developed areas.
  - ~~5. 714.7.5.—~~ *Grade Changes.* The effect that changes in the natural grade will have on the remaining trees and vegetation.
  - ~~6. 714.7.6.—~~ *Signage.* The visibility of an existing or proposed sign shall not serve as a reason for approval of a tree removal permit.
- I. 714.8.—Tree Replacement Alternatives.** The [Planning Department](#) Director shall condition a tree removal permit for all projects upon the replacement of the removed trees at a one-to-one ratio. Cash payment to Manatee County may be made in lieu of replacement. The [Planning Department](#) Director may accept a combination of either of the above methods for compliance with this Section.
- ~~1. 714.8.1.—~~ The [Planning Department](#) Director shall also have the option of considering replacement of the trees on adjacent sites, if there is no reasonable replacement alternative on-site and the adjacent site is of sufficient size to support the placement of such trees. If such an alternative is chosen, the applicant must provide a landscaping plan for the replacement trees as well as a written maintenance agreement for the trees. All trees planted off-site shall be at least Florida Quality No. 1 nursery stock. If the adjacent site is single-owner occupied, then it shall be the responsibility of that owner to maintain all of the replacement trees in perpetuity and replace any trees that succumb to disease or death. If the adjacent site is the property of a homeowner's association or other group ownership, the association or group shall maintain all replacement trees in perpetuity and replace any trees that succumb to disease or death.
  - ~~2. 714.8.2.—~~ In recognition of overall tree canopy, an alternative method of tree mitigation may be considered by the [Planning Department](#) Director, if it is demonstrated that the lost canopy will be replaced within ten (10) years. This alternative shall require a greater quantity of replacement trees while allowing smaller replacement sizes.
  - ~~3. 714.8.3.—~~ The [Planning Department](#) Director shall reserve the right to increase the size of the replacement tree under unusual circumstances, such as age of tree, type of tree, rarity and historical significance, or the removal of a tree without a permit.
  - ~~4. 714.8.4.—~~ When trees are to be replaced on individual residential or nonresidential lots within a subdivision, the [Planning Department](#) Director may condition the approval of any preliminary plat to allow for replacement at the time of construction on each lot. The placement of trees on an individual lot shall be a prerequisite for an occupancy permit. Notice of replacement trees on each lot must be placed within the homeowner's documents or association documents approved with each final plat. Within this notice the developer shall state that the replacement trees may not be removed unless diseased or dead, in which case, they must be replaced with the same size and type of tree as originally planted on the lot.
  - ~~5. 714.8.5.—~~ Approval of replacement trees to meet the Residential Street Tree requirements of Section [701.3.D.715.3.4](#) shall be dependent upon the site design, lot size, existing trees and building envelopes to determine whether the trees will have sufficient room to thrive. The majority of replacement trees within such projects shall be located within common areas within the project such as greenbelts, roadway buffers and screening buffers. The [Planning Department](#) Director shall have the authority to approve an alternative replacement method.
  - ~~6. 714.8.6.—~~ When cash in lieu payments are made, the amount of cash payments will be in the manner established by the Board and shall include all material and labor costs, as well as those costs associated with the administration of this program. Payment for Tree Replacement shall be paid prior to the issuance of any Building Permits for the project. Utilization of the cash-in-lieu funds shall be determined by the Board ~~of County Commissioners~~ for amounts greater than five thousand dollars (\$5,000.00) or the

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~~Planning Department~~ Director for amounts of less than five thousand dollars (\$5,000.00). The funds shall be used for landscaping in affordable housing projects (meeting the criteria of [Section 545 Chapter 13](#)), county park projects, street and entranceway beautification programs, and other public projects.

~~7. 714.8.7.~~ When trees are removed with an approved tree removal permit, such trees shall be replaced as follows:

Existing Tree Size	Required Replacement Caliper Minimum	Ratio of Replacement Trees to Removed Trees
4" - 15" D.B.H.	3"	1:1
16" - 30" D.B.H.	5"	2:1
Over 30" D.B.H.	7"	3:1

~~8. 714.8.8. Replacement Tree Standards.~~ All replacement trees shall be at least Florida Quality No. 1 nursery stock.

~~9. 714.8.9. Incentive for Tree Preservation.~~ In order to help preserve significant trees (twenty-six (26) inches dbh or greater), an applicant may be given credit towards fulfilling the tree portion of screening, buffering and parking lot landscaping requirements. All such trees shall be in good health. Those trees between twenty-six (26) and thirty-five (35) inches dbh, shall equal three (3) required trees; over thirty-six (36) inches dbh shall equal five (5) required trees. A condition of use of this incentive is total protection of the tree during construction. Should the tree die as a result of construction practices or post-construction stress, as determined by the ~~Planning Department~~ Director, the replacement trees shall be planted or assurances are made for future planting at the appropriate time, within thirty (30) days of the determination of the death of the tree.

~~J. 714.9. Identification of Preserved Trees.~~ Upon approval of a tree removal permit, the location and species or common name of individual trees to be preserved, shall be entered upon the Final Site Plan, Final Development Plan or Preliminary Subdivision Plat. The applicant shall also identify and conspicuously mark any such tree or plant groups to be preserved.

~~K. 714.10. Protection During Development.~~ During any land development activity, protective measures shall be taken throughout the entire construction stage to prevent the destruction or damage of all trees to be retained on the site. Specific protective measures shall be outlined by the applicant in writing and to accompany the permit application.

~~L. 714.11. Time Period of Permits.~~ Tree removal permits shall continue in force for the same period of time as the development order approval, and shall be subject to the same extension privileges.

~~M. 714.12. Building Permits.~~ Building Permits do not authorize the removal of trees unless specifically approved as such by the ~~Planning Department~~ Director. When a tree removal permit is required, a Building Permit shall not be issued until a tree removal permit is issued, or prior tree removal approval has been granted as part of a development order.

~~N. 714.13. Violations.~~ In addition to any penalties which may be imposed by Chapter 12, any tree removed, relocated, or damaged in violation of this Section shall be replaced with trees of comparable characteristics. Each removal of a tree shall be deemed a separate offense. The ~~Planning Department~~ Director shall determine the location and number of such replacement trees which will immediately achieve a shade area comparable to that which existed prior to the violation. No Certificate of Occupancy shall be issued until complete replacement occurs. In no instance shall replacement trees be smaller than the minimum requirements set out in [Section 700.3.1.714.8.7](#), nor shall the replacement of such trees exempt the violator from the provisions of [Chapter 12 Section 106: Enforcement, Violations and Penalties](#).

**Section 701. ~~Section 715.~~ Landscaping and Screening Standards.****701.1. ~~715.1.~~ Purpose and Intent.**

The requirements established herein for the installation and maintenance of landscaping and screening are deemed necessary by Manatee County to protect and enhance the community's environmental, economic and aesthetic quality, thereby contributing to the overall objective of promoting the public health, safety and general welfare. More specifically, it is the purpose of this Section:

- A. ~~1.~~ To promote the conservation of potable and non-potable water;
- B. ~~2.~~ To aid in stabilizing the environment's ecological balance;
- C. ~~3.~~ To reduce noise, glare, heat and dust;
- D. ~~4.~~ To protect, conserve and improve the appearance of property;
- E. ~~5.~~ To promote energy conservation and personal comfort;
- F. ~~6.~~ To enhance community appearance, identity and unique natural beauty;
- G. ~~7.~~ To create visual interest, variety and harmony, and provide contrast and relief from the built-up environment.
- H. ~~8.~~ To reduce visual and functional conflicts between land uses and activity areas; and
- I. ~~9.~~ To establish the minimum landscaping and screening standards and criteria that are necessary to achieve the desired quality of life described by the purposes set forth above.

**701.2. ~~715.2.~~ Exemptions.**

These requirements shall apply to all new development or the expansion of existing development except for the following:

- A. ~~1.~~ Single-family and duplex dwellings on individual lots, except as provided in **Section 701.3.D~~715.3.4~~**; and
- B. ~~2.~~ Developments having been issued a final development order prior to the effective date of this Ordinance.

**701.3. ~~715.3.~~ Minimum Required Landscaping.****A. ~~715.3.1.~~ Vehicle Use Areas.**

1. ~~a.~~ A vehicle use area is any portion of a development site used for circulation, parking and/or display of motorized vehicles, except junk or automobile salvage yards.
2. ~~b.~~ All vehicle use areas containing more than one thousand (1,000) square feet shall be landscaped in accord with **Figure 7-1~~715.A~~**, which requires three hundred and sixty (360) square feet of planting area, including four (4) canopy trees and twenty (20) shrubs per twenty (20) parking spaces. If one (1) gallon shrubs are used within the landscape islands, forty (40) shrubs shall be required. Tree and shrub sizes shall be in accordance with **Section 701.4.B~~715.4(B)~~**.
3. ~~c.~~ For vehicle use areas serving large vehicles requiring additional maneuvering room, such as truck stops, and motor freight terminals, up to fifty (50) percent of required vehicle use area landscaping may be transferred and added to the perimeter buffer or roadway buffer.
4. ~~d.~~ No more than ten (10) consecutive parking spaces shall be allowed without an interior landscape island.
5. ~~e.~~ The front of a vehicle may encroach upon any interior landscaped area or walkway when said area is at least eight (8) feet in depth, not including curbing, per abutting parking space and protected by curbing. No tree or shrub of more than two (2) feet in height shall be located within two (2) feet of the edge of the landscape area.
6. ~~f.~~ If a Sign View Area is shown on the landscape plan, the developer will have the choice of either

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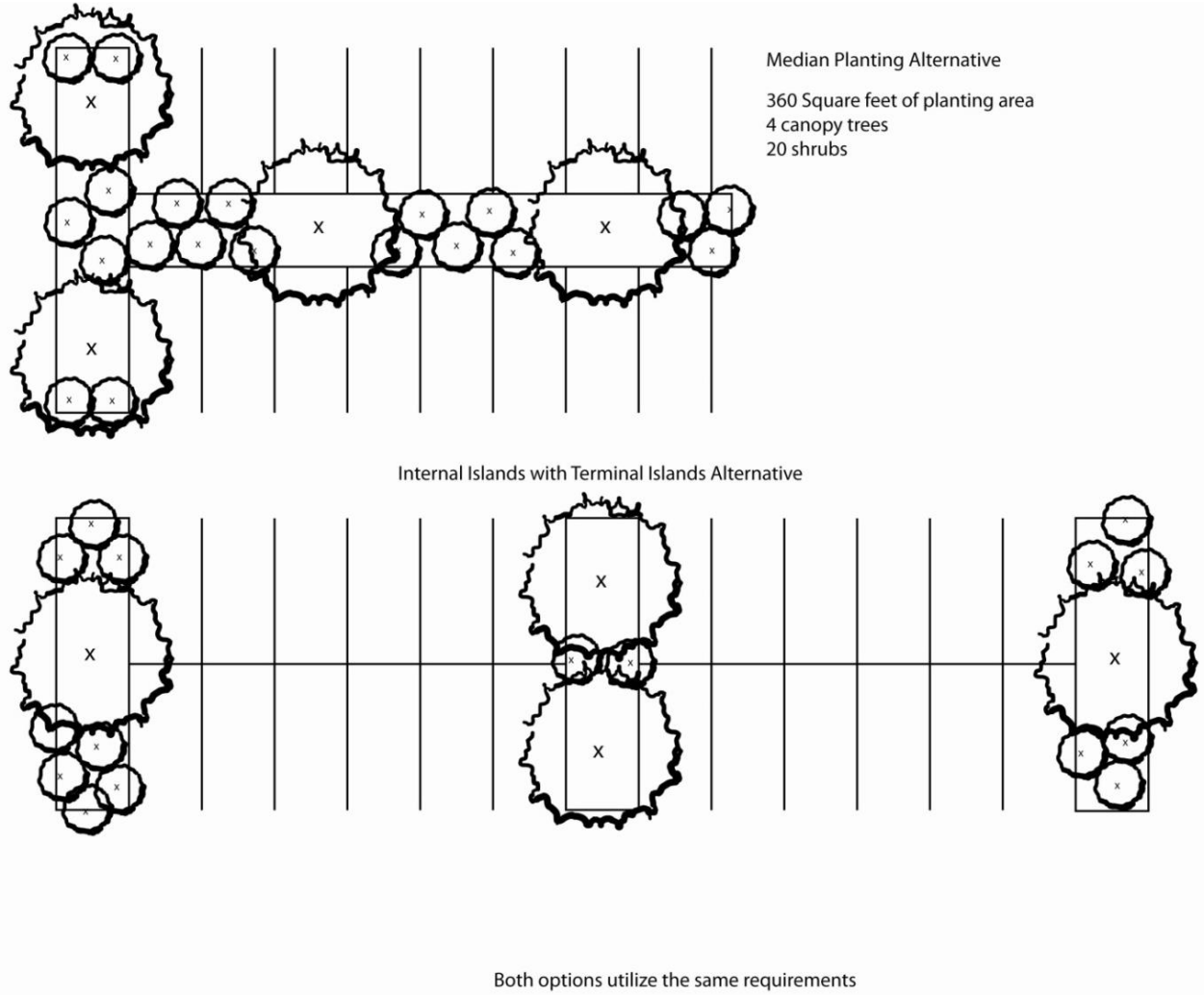
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replacing the canopy trees with understory trees within the View Area or moving the trees to another location within the parking lot. A Sign View Area shall be defined as those areas to be left within the sight lines of either free-standing or wall signs by the travelling public on adjacent streets. No more than thirty (30) percent of required trees may be switched to understory trees as a result of this provision. Understory trees must be provided at a ratio of 1.5 to 1 if used to replace canopy trees.

~~7. g. **Perimeter Landscaping Requirements.**~~ Where vehicle use areas abut the roadway, the roadway buffer may serve as the perimeter parking lot buffer. However, where the vehicle use area does not abut a roadway, the perimeter landscaping requirements shall be a minimum width of eight (8) feet containing one (1) canopy tree meeting the minimum requirements of [Section 701.4.B715.4\(B\)](#) per forty (40) feet or substantial fraction thereof, and either shrubs, hedges, berming or fences or any combination thereof, to reach a height of forty-two (42) inches, two (2) years after installation, and being eighty (80) percent opaque.

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Figure 7 - 1: ~~Figure 715.A.~~ Vehicle Use Area Landscaping

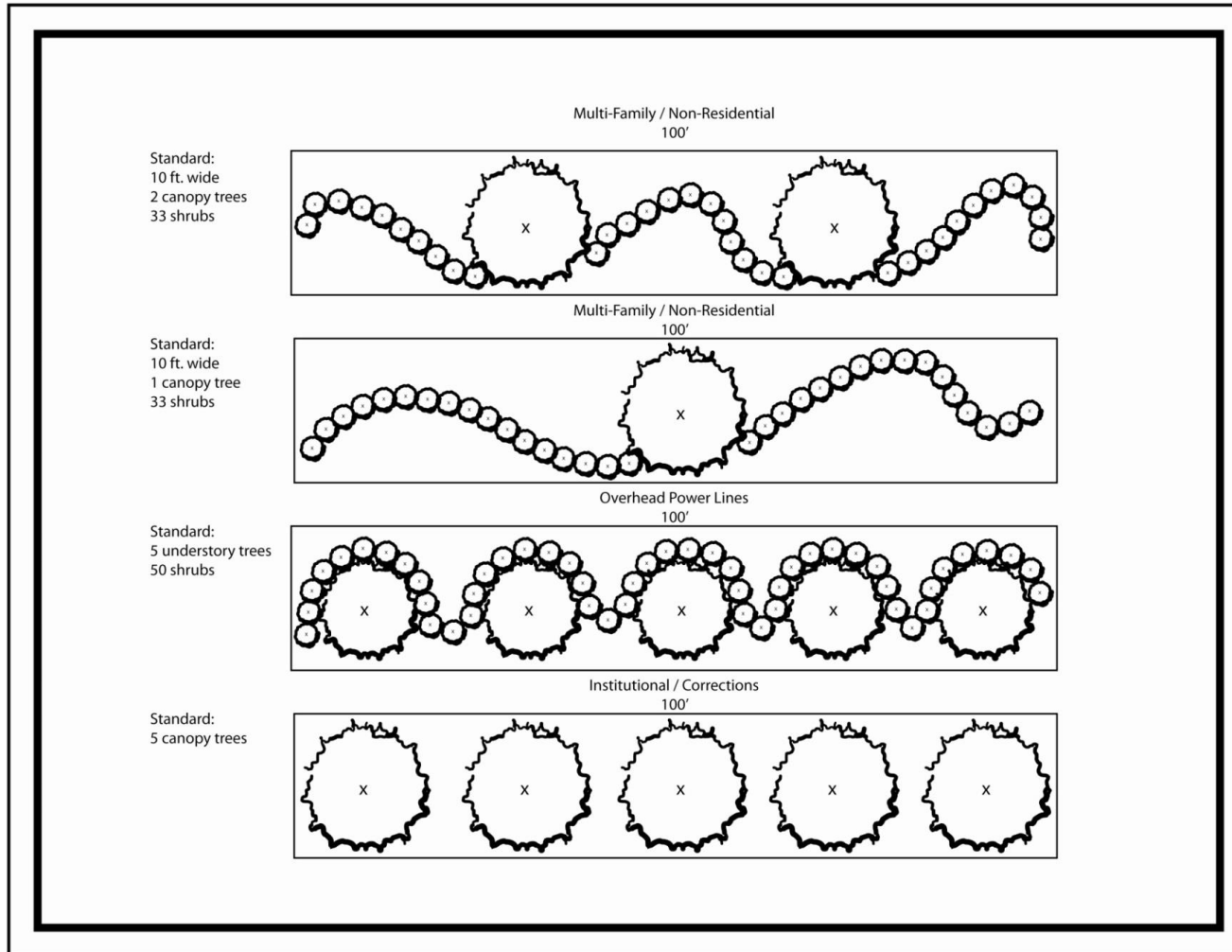


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**B. ~~715.3.2.~~ Buffer Zones.**

1. ~~a.~~ Buffer Zones are landscaped strips along parcel boundaries.
2. ~~b.~~ Buffer Zones serve to separate incompatible uses and/or create attractive boundaries.
  - ~~Widths and degrees of vegetation depend on relationship between uses.~~
  - ~~Standards are per one hundred (100) linear feet.~~
  - ~~Plant materials are to be spread relatively evenly throughout the buffer.~~
  - ~~See Figure 7-3745.C for required amounts of landscaping.~~
  - ~~See Figure 7-3745.C for landscaping alternatives.~~
3. ~~c.~~ Buffer zones for proposed industrial uses adjacent to residential uses/zoning shall use buffer option E, unless otherwise approved with Planned Development Specific Approval.
  - ~~1.~~ Roadway Buffers.
    - a. Required for multi-family and non-residential projects along all roadways. Required for single-family projects abutting thoroughfares only.
      - i. ~~A.~~ Reverse frontage lots shall be provided adjacent to major thoroughfares. A twenty (20) foot wide buffer shall be provided along rear property lines abutting right-of-way. Additional lot depth of twenty (20) feet shall be provided to accommodate such buffer when adjacent to collectors, arterials or other thoroughfares.
        - (a) ~~See Figure 7-2745.B for requirements.~~
        - (b) ~~If fences are used, required landscaping shall be located on the exterior, facing the roadway, or adjacent property.~~
        - (c) ~~For hedges within roadway buffers, the shrubs shall reach a height of three (3) feet within two (2) years.~~
        - (d) ~~For roadway buffers that contain overhead power lines, the requirement for canopy trees may be reduced to allow understory trees as shown in Figure 7-2745.B.~~

Figure 7 - 2 ~~Figure 6: Figure 715.B.~~ Roadway Buffer Options ~~Per~~per 100 Feet



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**b. ~~2.~~ Screening Buffers.**

- i.** ~~Screening buffers are required between zoning district boundaries.~~
- ii.** ~~The width of the buffer shall be as defined in the Buffer Matrix, [Figure 7-4715.D](#).~~
- iii.** ~~Decorative, opaque fences shall be considered:
  - Concrete Aggregate
  - Stucco
  - Finish (either colored or painted)
  - Brick
  - Stone
  - Glass Block or
  - Wood~~
- iv.** ~~No chain link shall be allowed. (The exception is chain link with slats shall be allowed for the gates of dumpster enclosures).~~
- v.** ~~Concrete masonry shall be allowed only if split face design.~~
- vi.** ~~Structurally safe, durable and attractive.~~
- vii.** ~~A minimum of six (6) feet in height.~~
- viii.** ~~For hedges used within screening buffer zones, the plant materials used shall reach a minimum height of six (6) feet within three (3) years of planting.~~

**c. ~~3.~~ Residential Greenbelts.**

- i.** ~~For all residential projects, a fifteen (15) foot wide perimeter greenbelt buffer shall be required. Streets and utilities providing interneighborhood ties may be permitted to pass through greenbelt buffer areas. Should such greenbelts be located adjacent to single family lots, such lots may not be platted through the greenbelt. In projects consisting entirely of fifteen (15) or less single family lots, greenbelt buffers shall be reduced in width to ten (10) feet.~~

Exemptions:

  - ~~For new residential subdivisions located in the A or A-1 zoning districts, no greenbelt shall be required.~~
  - ~~For lot splits inside or out of a subdivision, resulting in the creation of one additional lot, no greenbelt shall be required.~~
  - ~~For replatting of existing lots if the total number of lots either remains the same or is reduced, no greenbelt shall be required.~~
- ii.** ~~The greenbelt buffer shall be planted with a minimum of one canopy tree planted every thirty (30) feet on center for the length of the perimeter of the project.~~
- iii.** ~~For new residential projects abutting non-recreational, non-residential uses, the greenbelt buffer shall also meet the screening buffer requirements that may include either a hedge, fence or wall.~~
- iv.** ~~All landscaping shall be installed prior to final plat approval, unless performance security is posted guaranteeing the landscaping will installed prior to the first Certificate of Occupancy.~~
- v.** ~~Irrigation shall be provided as required pursuant to this Code and installed prior to issuance of the first Certificate of Occupancy of the project.~~

Figure 7 - 3 ~~Figure 6-3: Figure 715.C-~~ Screening Perimeter Buffer Options ~~Per~~ 100 Feet

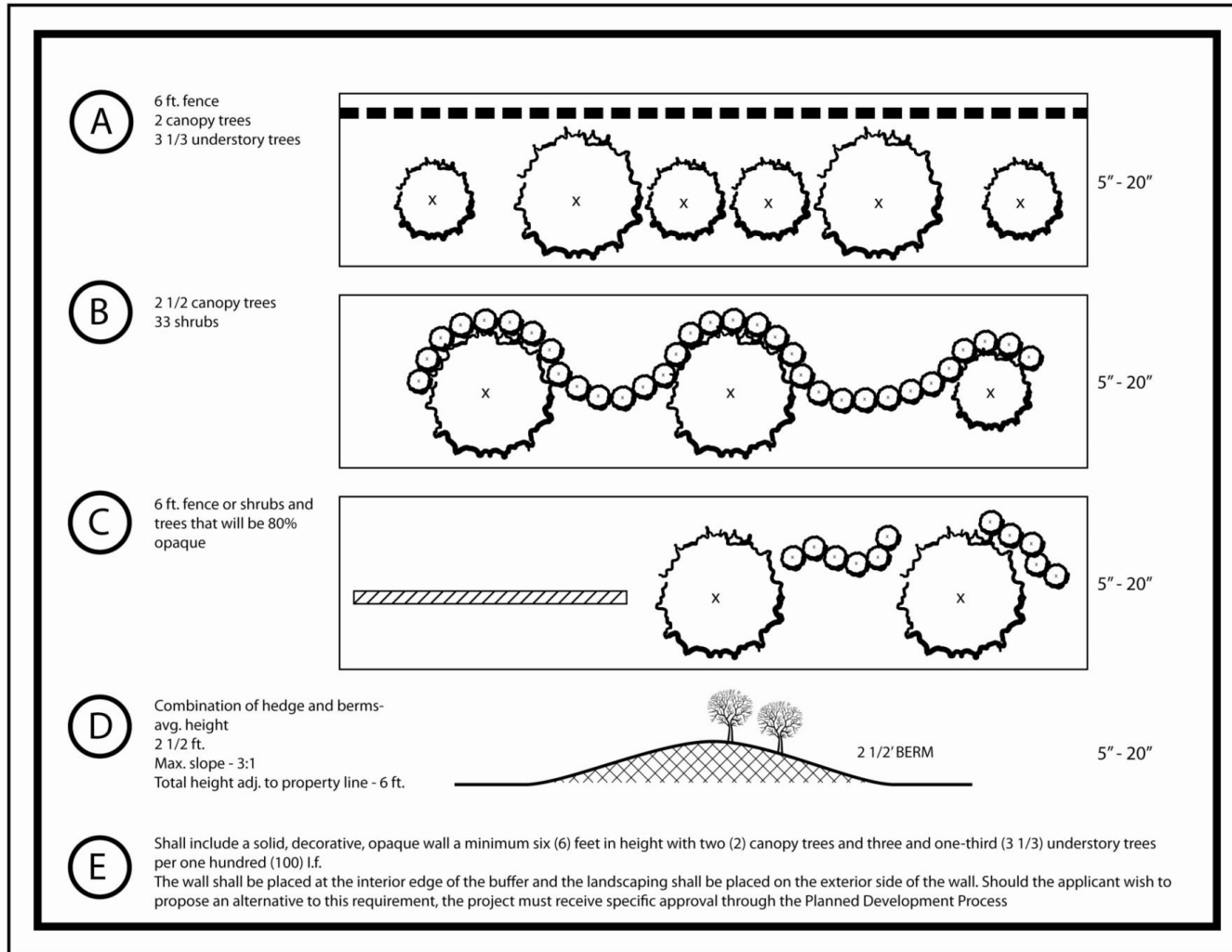


Figure 7 - 4: Buffer Screening Matrix; Width of Buffer Required (In Feet)

Proposed Use	Abutting Use/or Zoning Width of Buffer Required (in Feet)													
	Res. Excl. M.F.	Multi-Family	Res. Sup. Uses	Community Ser. Uses	Retail Commercial	Service Commercial	Misc. Service	Service	Industrial	Misc. Uses	Rec. Uses	Transp. Uses	Warehouse	Intensive Ag Uses*
Res. Excl. M.F.	0	10	10	10	15	10	15	15	20	15	10	20	20	15
Multi-Family	10	0	5	10	15	10	10	10	20	10	10	20	15	10
Res. Sup. Uses	10	5	0	5	10	5	5	5	10	10	5	15	15	10
Community Ser. Uses	10	10	5	0	5	5	5	5	10	5	5	10	10	10
Retail Commercial	15	15	10	5	0	5	5	5	10	5	5	10	5	5
Serv. Commercial	10	10	5	5	5	0	5	5	10	5	5	10	5	5
Misc. Service	15	10	5	5	5	5	0	5	10	5	5	10	5	5
Services	15	10	5	5	5	5	5	0	10	5	5	10	5	5
Industrial	20	20	10	10	5	5	5	5	0	10	10	5	5	0
Misc. Uses	15	10	10	5	5	5	5	5	10	0	5	10	10	10
Rec. Uses	10	10	5	5	5	5	5	5	10	5	0	10	10	10
Transp. Uses	20	20	15	10	10	10	10	10	5	10	10	0	5	5
Warehouse	20	15	15	10	5	5	5	5	5	10	10	5	0	5
Intensive Ag* Uses	15	10	10	10	5	5	5	5	0	10	10	5	5	0

\*Intensive Ag Uses shall be defined for the purpose of this chart to include Agricultural Products Processing Plants, Animal Products Processing Facility, Animal Shelters, Farm Equipment and Supply Establishments, Kennels, Sawmills, Slaughterhouses, Stockyards/Feedlots, and Veterinary Hospitals.

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**C. ~~715.3.3. Foundation Landscaping.~~** ~~—~~The amount of twenty (20) square feet per one thousand (1,000) square feet of proposed gross floor area, located contiguous to the building.

**D. ~~715.3.4. Residential Street Trees.~~**

1. ~~—~~Prior to C.O., one (1) canopy tree shall be planted within twenty-five (25) feet of the right-of-way of each local street within a residential development for every fifty (50) linear feet, or substantial fraction thereof, of right-of-way. None of these required trees shall be planted within a public or private utilities easement. Palm trees may not be utilized to meet this requirement, unless they are grouped with a minimum of two (2) used for each canopy tree. A maximum of twenty-five (25) per cent of all proposed residential street trees may be palm trees.
2. ~~—~~The trees shall be spaced no closer together than twenty-five (25) feet, unless a decorative grouping or alternative method is chosen by the developer. Existing native trees should be used to fulfill these requirements wherever they meet the spacing and size requirements.
3. ~~—~~Responsibility for installation and initial maintenance is the developer's on all common areas within the project. Responsibility for the property owner's installation and maintenance of the trees shall be placed within the Homeowner's Documents and/or Deed Restrictions governing the development. Such trees shall be installed prior to Certificate of Occupancy for each individual unit.

**E. ~~715.3.5. Redevelopment Standards.~~**

1. ~~A. —~~ These redevelopment landscape standards apply to approval requests with existing building when:
  - a. ~~—~~A "change of use" that requires a plan approval per ~~Chapter 3 Section 508.2.3; or~~
  - b. ~~—~~ Establishing a new ~~Administrative Permit Use~~, that requires ~~a plan~~ administrative approval ~~per Section 506; or~~
  - c. ~~—~~ Increasing the Gross Floor Area or the Vehicle Use Area that requires a plan approval per ~~Chapter 3 Section 508.2.3; or 1005.8740.1.2.1.~~
2. ~~B. —~~ Exceptions:
  - a. ~~—~~ Vehicle Use Areas (parking space) increases due solely to the restriping of existing surfaces are not included within the percentage increase calculation.
  - b. ~~—~~ ~~Special Permit~~—All Special Permit Uses shall be required to meet all of the requirements for landscaping and screening for new development contained in ~~Section 701745~~ without modifications.
3. ~~C. —~~ Any project which results in more than a fifty (50) percent increase in gross floor area or the number of parking spaces shall be required to meet all of the requirements for landscaping and screening for new development contained in ~~Section 701745~~.
4. ~~D. —~~ Any project that proposes an increase in Gross Floor Area (GFA) and/or Vehicle Use Area (parking spaces) exceeding twenty-five (25) percent but less than fifty (50) percent is required to provide landscaping per ~~Section 701745~~ for the area of the increase (new work), and shall upgrade the following existing landscape components to the current Code requirements:
  - a. ~~—~~ Roadway buffer,
  - b. ~~—~~ Terminal islands,
  - c. ~~—~~ Internal islands,
  - d. ~~—~~ Foundation landscaping,
  - e. ~~—~~ Irrigation,
  - f. ~~—~~ Perimeter landscaping, and
  - g. ~~—~~ Screening.
5. ~~E. —~~ ~~Modifications~~—The above landscaping components shall be installed to meet this code. The following modifications are allowed:

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- a. ~~▲ Roadway Buffers~~—The clustering of required plant materials, is allowed to reduce the removal of existing site improvements if the required plant count is maintained.
  - b. ~~▲~~—When necessary to maintain Code dimensions for parking space depth and drive aisle width, the roadway buffer width may be reduced to a minimum of five (5) feet.
  - c. ~~▲ Foundation Landscaping~~—Flexibility in the location of new foundation landscaping is allowed to minimize the removal of existing site improvements and maintain the required parking space and drive aisle dimensions. Foundation landscaping may be located around the existing building and is encouraged to be located around building entrances.
  - d. ~~▲ Internal Islands~~—The number of internal islands may be reduced by one-half (½) in the existing parking area.
6. ~~F.~~— Any project that proposes an increase in Gross Floor Area (GFA), and/or Vehicle Use Area, of between zero (0) and twenty-five (25) percent of the existing (includes new Administrative Permits with no GFA increase), is required to provide landscaping per **Section 701.745** for the area of the increase (new work).
7. ~~G.~~ ~~Previously Planted Landscaping~~—All projects shall be required to replace, previously planted, required landscaping that has died or is not fulfilling its intended purpose (screening, height after two (2) years, hedges with gaps, etc.) to meet the standards in effect at the time of the original approvals, unless such landscaping is no longer required by this code.
8. ~~H. Time Period~~—Incremental increases in either gross floor area or vehicle use area spaces that cumulatively exceed the fifty (50) percent threshold over a three (3) year period shall require the project to meet the standards for new development as shown in **Section 701.746**.

**701.4. 745.4. Specifications.**

**A. A. General.**

- 1. ~~▲~~ Drought tolerant species
- 2. ~~▲~~ Minimum Florida Number One Grade
- 3. ~~▲~~ Appropriate to soil and climate
- 4. ~~▲~~ Minimum thirty (30) percent native species
- 5. ~~▲~~ Low maintenance
- 6. ~~▲~~ Irrigation shall be zonally designed
- 7. ~~▲~~ Xeriscape-type landscaping is required whenever feasible
- 8. ~~▲~~ Must meet the standards of **Section 1002.743**, Visibility Triangles
- 9. ~~▲~~ No synthetic/artificial lawns or plants
- 10. ~~▲~~ All landscaped areas shall be protected by wheel stops or curbing
- 11. ~~▲~~ Areas with planted trees shall be a minimum 8 feet wide (inside curb measurement)
- 12. ~~▲~~ Existing plant communities designated to remain must be intact and undisturbed; noxious and exotic plants must be removed.
- 13. ~~▲~~ Preserving native plant communities is encouraged and may be required, as appropriate.
- 14. ~~▲~~ Native plant communities shall be counted at 1.5 ratio for meeting open space requirements (minimum ¼ acre in size)
- 15. ~~▲~~ No parking, loading areas, or buildings shall be placed within any landscape buffers
- 16. ~~▲~~ Trees and shrubs shall not be placed within the middle two-thirds (2/3) of any drainage swale or within three (3) feet measured horizontally from the centerline of the drainage swale; whichever is greater. Swales must allow the positive flow of water without any obstruction.
- 17. ~~▲~~ A maximum of forty (40) percent of all required trees may be palm trees. When palm trees are utilized as

**Commented [LD13]:** STAFF: What are these specifications for? all planting materials?

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canopy trees, a minimum of two (2) palms must be grouped to serve as a canopy tree. Each palm tree group will count as one (1) canopy tree.

**B. ~~B.~~—Trees.** Trees required under **Section 701.745** shall be in accordance with the following:

MINIMUM SIZE AT PLANTING	CANOPY	UNDER-STORY	PALM
Height	10 Feet	6 Feet	15 Feet
Caliper	2½ Inches	1½ Inches	
Spread	4 Feet		

**C. ~~C.~~—Shrubs.** Shrubs required under **Section 701.745** shall be in accordance with the following:

MINIMUM SIZE AT PLANTING	HEDGE	VEHICLE USE AREA ISLANDS
Height	24 Inches	8 Inches
Gallons	3 Gallons	1 Gallon

**D. ~~D.~~—Prohibited Species. Prohibited Plant Species.** The following plant species shall not be planted in Manatee County:

1. Melaleuca quinquenervia (commonly known as Punk tree, Cajeput, paper bark, malaleuca);
2. Schinus terebinthefolius (commonly known as Brazilian Pepper or Florida Holly);
3. Casuarina species (commonly known as Australian Pine);
4. Rhodomyrtus tomentosa (commonly known as Downy Rose Myrtle); and
5. Mimosa pigra (commonly known as the Catclaw Mimosa).
6. Dalbergia sissoo (commonly known as the Indian Rosewood)
7. Cupaniopsis anacardioides (commonly known as the Carrotwood)

**E. ~~E.~~—Nuisance, Exotic Plant Species Management.** All nuisance, exotic plant species shall be removed from upland portions of land development sites during construction unless Special Approval is granted. An Exotic Plant Species Management Plan shall be approved by the Department Director of Environmental Management prior to or concurrent with Final Site Plan or Construction Plan approval. The management plan shall provide for the continued, phased, removal of nuisance, exotic plant species that become reestablished within common areas of a residential development and open spaces within non-residential projects, for the life of the project.

**Special Approval.** Nuisance, exotic plant species removal may be modified by the Planning Department Director ~~upon a favorable recommendation by the Director of Environmental Management~~, provided that an Exotic Species Management Plan is approved to minimize the expansion and establishment of exotic plant species outside of the approved post-development configuration.

**F.** Special approval may be approved as follows:

1. ~~specific~~Specific locations of redevelopment projects, where existing nuisance, exotic vegetation is acting as a screen to assure compatibility or protection of the existing land use.
2. ~~development~~Development sites where removal of nuisance, exotic vegetation cannot be phased, or will result in costly and extreme soil stabilization measures.

**701.5. ~~745.5.~~—Modifications.**

~~Planning~~Department Director may approve alternative screening/landscaping upon determining the plan meets the intent of the standards and meets or exceeds a plan in strict compliance.

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**701.6. ~~715.6.~~ Landscape plan required.**

A landscape plan shall be submitted, reviewed and approved by the [Planning Department](#) Director at the Preliminary and final site plan stages, or prior to the issuance of a building or access and drainage permits. These plans should be integrated into the site plans/plats submitted, and shall be prepared by a landscape architect or other persons as authorized under Chapter 481, Part II, Florida Statutes.

~~715.6.1.~~ The landscape plan shall consist of:

- A. ~~715.6.1.1.~~ Date, scale, north arrow, and the names, addresses, and telephone numbers of both the property owner and the person preparing the plan;
- B. ~~715.6.1.2.~~ Location of existing boundary lines and dimensions of the site, the zoning classification of the site, and the zoning classification of adjacent properties, A vicinity map should also be attached to or made a part of the plan;
- C. ~~715.6.1.3.~~ Approximate centerlines of existing water courses and the location of the twenty-five (25) year and one hundred (100) year floodplain, if applicable; the approximate location of significant drainage features; and the location and size of existing and proposed buildings, streets, utility easements, driveways, parking, sidewalks, and similar features;
- D. ~~715.6.1.4.~~ Project name, street address, and legal description;
- E. ~~715.6.1.5.~~ Location, height, and material of proposed screening and fencing (with berms to be delineated by one (1) foot contours);
- F. ~~715.6.1.6.~~ Locations and dimensions of proposed landscape buffers, areas, and cross section;
- G. ~~715.6.1.7.~~ Complete description of plant materials shown on the plan, including names (common and botanical name), locations, quantities, container or diameter breast height sizes at installation, heights, spread, method of irrigation (as shown in [Section 701.7745-7](#)) and spacing. The location and type of all existing trees on the lot over four (4) inches in caliper or greater must be specifically indicated;
- H. ~~715.6.1.8.~~ Calculations as to the amount (in square feet) of vehicle use and foundation landscape areas required and provided;
- I. ~~715.6.1.9.~~ An indication of how existing healthy trees proposed to be retained will be protected from damage during construction;
- J. ~~715.6.1.10.~~ Size, height, location and material of proposed seating, lighting, planters, sculptures, and water features;
- K. ~~715.6.1.11.~~ A plan drawn to scale showing in addition to the above items the location of roads, sidewalks, buildings, landscape areas and buffers, planters, drainage facilities, easements, property lines and fences.
- L. ~~715.6.1.12.~~ Location of visibility triangles on the site (if applicable), including visibility triangle within parking areas;
- M. ~~715.6.1.13.~~ Other information as may be required by the [Planning Department](#) Director ~~and Public Works Director~~ to determine whether the landscape plan meets the requirements of this Code; [and](#)
- N. ~~715.6.1.14.~~ Preliminary Site Plan Requirements. Items to be included within a landscape plan submitted in conjunction with a preliminary site plan are: proposed general types of plant materials, general location of landscaping in vehicle use areas, foundation landscaping areas, screening buffers and roadways buffers. One hundred (100) percent automatic irrigation shall be noted.

**701.7. ~~715.7.~~ Irrigation.**

- A. ~~715.7.1.~~ **Irrigation Design Standards.** One hundred (100) percent automatic irrigation systems shall be required for all projects. The following standards shall apply to the design, installation and maintenance of the irrigation systems. Single-family and duplex dwellings, if an automatic irrigation is installed, shall provide rain or moisture sensing shut-off devices.

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1. ~~Existing plant communities and ecosystems maintained in a natural state do not generally require supplemental irrigation.~~
2. ~~Rain or moisture sensing shut-off devices shall be installed with any irrigation system. Drip or microjet irrigation shall be used where possible. Low trajectory spray nozzles are encouraged.~~
3. ~~All irrigation systems shall use the lowest quality water available which adequately and safely meets the water needs of the system. Stormwater reuse, reclaimed water use and grey water irrigation systems shall be used where feasible. Shallow wells and wet retention/detention ponds shall also be in used as an alternative to potable water.~~
4. ~~The applicant shall provide an irrigation plan that shall show the location of the water source and size of well (if applicable), backflow preventer (if applicable), the location of irrigation heads, drip lines, water lines or other items that will show that one hundred (100) percent automatic irrigation is serving all required landscape areas on the plan.~~

**B. ~~Irrigation Within the Right-of-Way.~~** Property owners wishing to maintain landscaped areas in the rights-of-way contiguous with their property and adjacent to the paved road or sidewalk may, with the following stipulations, install underground irrigation lines and sprinkler heads within these areas:

1. ~~When the County or any other utility with legal easements, needs to cut or remove parts of said irrigation system, or damages same as a result of work within the rights-of-way, it shall be the property owner's responsibility to repair and/or replace those damaged areas of the system, and all costs shall be borne by the property owner.~~
2. ~~No portion of any irrigation system shall be installed within the right-of-way without a Right-of-Way Use Permit. Any spray heads or nozzles located adjacent to the rights-of-way shall be directed away from all travel lanes and sidewalks. All such systems shall be designed so that water being applied to impervious surfaces is reduced or eliminated.~~
3. ~~The irrigation system shall be properly maintained and operated consistent with County-wide watering schedules.~~
4. ~~For public health, safety and welfare reasons, the County may rescind any approval and cause removal of any irrigation line within the rights-of-way, without notice, cause or reimbursement, to the property owner.~~

**~~701.8. 715.8. Installation and Maintenance of Landscape and Irrigation.~~**

- A. ~~Installation shall be complete at the time of final inspection, except as provided otherwise.~~
- B. ~~Property owner shall maintain landscaping and screening for the life of project.~~
- C. ~~Required plant materials which are removed or die shall be replaced within thirty (30) days.~~
- D. ~~Understory growth and the natural function of the area shall be maintained.~~
- E. ~~Installation shall be in a sound, professional manner.~~
- F. ~~Required landscaping shall be maintained and pruned in a manner that preserves the natural shape and growth characteristics of the species. Pruning that "hatracks" or "lollipops" canopy trees is prohibited without prior approval of the [Planning Department](#) Director or ~~Board of County Commissioners.~~~~

~~715.9. Certification~~

**~~701.9. 715.9.1. Certification Required.~~**

Prior to issuance of a Certificate of Occupancy or approval of a final plat, (as applicable), the landscape professional responsible for the project shall provide written, sealed or notarized, certification to the Engineer of Record that the installation of irrigation and landscaping has been completed in accordance with the approved plan or plat. The Engineer of Record shall provide a copy of the landscape professional's certification with submittal of his/her certification.

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**Section 702. ~~Section 732. Earthmoving.~~****702.1. ~~732.1. Purpose~~**

The purpose and intent of this Section is to ensure safe and environmentally adequate design and reclamation of all disturbed lands; and to protect all property during excavating, filling, and off-site transporting of material in the process of earthmoving.

**702.2. ~~732.2. Exemptions.~~**

A. The ~~following~~ earthmoving operations listed under [subsection B, ~~732.2.1 through 732.2.10~~](#) shall not require a separate earthmoving site plan or operating permit provided:

1. ~~(1)~~ No off-site drainage is affected;
2. ~~(2)~~ No rise in the base flood elevation of an identified floodway;
3. ~~(3)~~ No change in grade at the property line (except for swales); and
4. ~~(4)~~ All other state and local requirements have been fulfilled. Although an earthmoving permit may not be required, a tree removal permit under [Section 700744](#) may be required. If the site is located within the floodplain, the provisions of [Section 802748](#), Floodplain Management shall apply.

B. The activities eligible for exemptions are:

1. ~~732.2.1~~ Earthmoving which is accessory to agricultural operations where no earth is transported off-site.
2. ~~732.2.2~~ Site preparation and finish grading for or accessory to Permitted Uses or other Conditional Uses, which are specifically identified and approved during another developmental permit approval.
3. ~~732.2.3~~ Earthmoving which is a part of a ~~County~~ county approved construction project, such as a subdivision, or a dredge and fill project.
4. ~~732.2.4~~ Earthmoving for the preparation of a site, foundation, and landscaping of a single family detached, attached dwelling unit, or duplex located on a lot of record.
5. ~~732.2.5~~ Two hundred (200) cubic yards or less of material classified under earthmoving within any one (1) year period.
6. ~~732.2.6~~ A grading operation of two (2) acres or less.
7. ~~732.2.7~~ Excavation of a retention/detention pond associated with another valid development permit.
8. ~~732.2.8~~ Excavation, and filling confined to a single family detached or attached dwelling unit residentially zoned lot including excavation for a pond not to exceed two hundred (200) cubic yards located totally within the same lot.
9. ~~732.2.9~~ Earthmoving which is specifically associated with and part of another valid development permit on a lot for a structure, drainage facility, or sanitary sewer system, subject to compliance with the Manatee County Development Standards.
10. ~~732.2.10~~ All phosphate mining activities shall comply with requirements set forth in [Chapter 2-20, Mining and Reclamation, of the Code of Ordinances Ordinance 81-22, as amended](#) in lieu of obtaining an earthmoving permit under this Section.

**702.3. ~~Earthmoving Site Plan Review and Requirements.~~**

A. **Site Plan Requirements.** [The earthmoving site plan depicts the proposed earthmoving activities and procedures as forecasted for the entire life of the earthmoving project.](#)

**B. ~~732.3. Minor Earthmoving Site Plan Requirements.~~**

1. ~~732.3.1. Applicability.~~ Minor earthmoving site plans shall be required for all earthmoving operations as described herein, which:

**Commented [LD14]:** As part of phase II, chapters 2-20 and 2-25 of the code of ordinances need to be reviewed to identify and address conflicts with this section, and make a decision as to what goes in the LDC other than references to these other chapters. A lot of the information is the same, some not exactly the same.

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- a. ~~732.3.1.1.~~ Are not exempted by Section ~~702.2~~~~732.2~~, Exemptions;
- b. ~~732.3.1.2.~~ Are not subject to Section ~~732.4~~~~702.4~~, Major Earthmoving Requirements;
- c. ~~732.3.1.3.~~ Involves grade changes at any property line, except for swales and driveway access;
- d. ~~732.3.1.4.~~ Involves any earthmoving operation in excess of two hundred (200) cubic yards but less than one thousand (1,000) cubic yards of material classified under earthmoving, when not specifically associated with and approved under any other development permit; or
- e. ~~732.3.1.5.~~ Involves a grading operation over two (2) acres but not less than ten (10) acres, when not specifically associated with and approved under any other development permit.
2. ~~732.3.2.~~ Pre-Application Conference. A pre-application conference is optional for minor earthmoving site plan applications.
3. Department Director Review. Applications for minor earthmoving shall be submitted to the ~~Planning, Permitting and Inspection Department~~ Department Director on forms as provided. The ~~Department Director~~ Planning Director, after necessary coordination with other applicable ~~County~~ county departments and agencies, may approve such application.
- ~~732.3.3.~~ The ~~Department Director~~ Public Works Department shall conduct a site inspection and issue a report on each application. In the approval of any application for minor earthmoving under this Section, the ~~Department Director~~ Public Works or Planning Director may include conditions designed to protect adjacent property or public property; or to ensure safe and environmentally adequate design, construction and reclamation that are stipulated under Sections ~~732.4~~~~702.4~~ and ~~732.5~~~~702.5~~.
4. ~~732.3.4.~~ Site Inspection. Upon completion of the earthmoving, the property owner shall notify the ~~Department Director~~ Public Works Director, who shall cause a site inspection of the completed operation ~~to be conducted by the Planning Department~~, to ensure any and all necessary reclamation is completed and that no adverse surface water drainage ~~problems~~ conditions exist.
5. ~~732.3.5.~~ Floodplain Management Permit. If an earthmoving operation lies within any floodplain, a ~~F~~ floodplain Management ~~p~~ Permit is also required.
6. ~~732.3.6.~~ Phosphate Mining. All phosphate mining operations shall comply with Chapter 2-20, Mining and Reclamation, of the Code of Ordinances Ordinance 81-22, as amended in lieu of obtaining an earthmoving permit under this Section.
- C. ~~732.4.~~ Major Earthmoving Site Plan Requirements.**
1. ~~732.4.1.~~ Site Plan and Permit Required. Major earthmoving site plans and operating permits shall be required for all earthmoving operations which involve excavation and/or filling of:
- a. ~~1.~~ Over one thousand (1,000) cubic yards of material, whether by single or multiple operations in any one (1) year period of time; or
- b. ~~2.~~ More than a ten (10) acre excavation/filling operation.
2. ~~732.4.2.~~ Requirements. All major earthmoving shall meet the following requirements:
- a. The applicant shall be the owner of the property, if the earthmoving operation is being conducted by him. If the earthmoving operation is done by others (e.g. a contractor), the owner and contractor shall be co-applicants as principals jointly and severally liable as co-principals on the surety bonds;
- b. If the zoning district in which the proposed activity is located permits earthmoving activities, an applicant shall submit to the ~~Department Director~~ Planning Director, an ~~E~~ earthmoving Site ~~P~~ plan of its proposed activities to accompany the application. In zoning districts when earthmoving requires an ~~A~~ Administrative or Special Permit ~~or Special Permit~~, the applicant shall submit ~~those applications~~ any required Special Permit or Administrative Permit application in addition to ~~an the E~~ earthmoving Site ~~P~~ plan of its proposed activities; and
- c. For loam, sand, gravel, and roadway aggregate material excavations, the ~~Department Director~~ Planning Director may lessen the ~~following~~ requirements herein required based on the scope of the work proposed by the applicant.

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~~A. 732.4.3. Application Information and Site Plan Requirements.~~

~~B.D.~~ A pre-application conference is required for all major earthmoving site plan applications. The purpose of the pre-application conference is to provide the County with sufficient information at an early stage in order to understand the scope of work, advise the applicant of the Code requirements, and inform the applicant what may be required prior to the applicant preparing site plans. The Earthmoving Site Plan is a description of the proposed earthmoving activities and procedures as forecasted for the entire life of the earthmoving project. The materials to be excavated or filled, the sequence or phasing of excavation or filling and the estimated periods of time involved shall be indicated. The Earthmoving Site Plan shall in addition to meeting the requirements of Section ~~322.508.3.3~~, Preliminary Site Plans, shall also include:

1. ~~732.4.3.1.~~ Scaled maps, supporting documents, and calculations.
2. ~~732.4.3.2.~~ The name, address, and telephone number of the applicant. If the applicant and/or property owner are not individual natural persons or individual business entities, the application shall fully identify each person or entity having any interest in the earthmoving activities or ownership of the land, and shall specifically identify the nature of such interest. The name, address, and telephone number of the applicant's business office in Manatee County upon whom service of legal papers may be made and who may be contacted in case of need. A certified legal description and a statement of the nature of the applicant's legal interest in any and all lands upon which any operations are proposed;
3. ~~732.4.3.3.~~ The location of the one hundred (100) year floodplain and the twenty-five (25) year floodplain shall be shown on the site plan.
4. ~~732.4.3.4.~~ The locations and dimensions of proposed pit dewatering retention/detention ponds, together with a description of all proposed temporary and permanent silt, erosion, and turbidity controls;
5. ~~732.4.3.5.~~ The location, use, and description of any pipelines, building, or any other non-mobile structures or devices to be constructed for the extraction, pit dewatering, weight scales or other material handling facilities;
6. ~~732.4.3.6.~~ Maps or aerial photographs, on a scale of one (1) inch equals two hundred (200) feet, with overlaps of two hundred (200) feet, depicting the name, location and limits of all wetlands, lakes, rivers, reservoirs, streams, creeks, and other water bodies within the Earthmoving Site Plan area, including all waters of the State as defined by Chapter 403, Florida Statutes, and all navigable waters as defined by Chapter 253, Florida Statutes;
7. ~~732.4.3.7.~~ Engineering estimates of rated flow capacity for all equipment proposed for pit dewatering purposes and discharges to ground and surface waters, showing location of points of discharge from the applicant's property and estimates of discharge rates to any receiving streams;
8. ~~732.4.3.8.~~ The drainage features to be provided during and following all earthmoving activities, including topographic maps sufficient to show all drainage characteristics of the earthmoving site and immediate vicinity thereto; criteria used for design and an assessment of the effect that the proposed earthmoving, pit dewatering and discharge will have on the drainage regime of surface waters and the surficial aquifer system;
9. ~~732.4.3.9.~~ A program for controlling non-point sources of water pollution originating from any areas disturbed by earthmoving activities, the runoff from which is not redirected back into the pit.
10. ~~732.4.3.10.~~ A program for controlling fugitive dust originating from any areas disturbed by earthmoving activities or used as a principal haul route by the applicant, as deemed necessary by the Public Works Director.
11. ~~732.4.3.11.~~ A description of the maintenance program for the water retention/detention ponds and other pollution control facilities, addressing such issues as inspection, maintenance, repair or replacement and restoration as part of the total site reclamation effort;
12. ~~732.4.3.12.~~ An inventory of all existing wells on the property, to include locations, diameters and estimated depths;
13. ~~732.4.3.13.~~ Descriptions and locations for monitoring systems or devices to measure the effects of the proposed earthmoving activities on air and water quality, to include for each station: (1) the type of device or procedure to be installed or followed; (2) the schedule to be followed; (3) provisions for the County to witness the monitoring activities; (4) a proposal for the compilation of data; and (5) the scheduling for the submission

**Commented [LD15]:** Consider moving this section to a Dev. Review Manual.

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of reports;

14. ~~732.4.3.14.~~ A soil testing report by a Soil Testing Laboratory of the results of exploratory drilling showing the elevation of the top and base of the borrow zone, the soil composition of both underlying and overlying materials, and the pre-operational water levels encountered in the drilling of auger holes;
15. ~~732.4.3.15.~~ A transportation analysis, prepared by an engineer, to identify the haul routes for trucks or any other modes of transportation used for removing borrow materials off of the applicant's property, with emphasis given to any disruption of normal vehicular traffic movements caused by the proposed activities; and in so far as possible, the estimated maximum number of haul trips for any twenty-four (24) hour period.
16. ~~732.4.3.16.~~ A reclamation plan for all disturbed areas in accordance with ~~the following~~ [section 702.4, below](#), and a time schedule therefor ~~that meets all provisions of this Code~~;
17. ~~732.4.3.16.3. Rights-of-Way.~~ The applicant shall submit a map indicating the proposed haul route and include turning radii, width of pavement, method of periodic maintenance and dust control.
18. ~~732.4.3.17.~~ For all projects located in a floodplain, in addition to obtaining a floodplain management permit under Section ~~802.718~~, a hydrologic study detailing the effects of the earthmoving operation on the characteristics of the 100-year regulatory floodway and 100-year floodplain shall be submitted. The technical information shall include, but not be limited to, the following:
  - a. ~~732.4.3.17.1.~~ Existing and final topography, surveyed and mapped by a professional land surveyor to one (1) foot contour intervals with elevations referenced to mean sea level datum, shown on a fifty (50) foot grid meeting the minimum requirements as set forth in Chapter 21-HH-6, of the Florida Administrative Code;
  - b. ~~732.4.3.17.2.~~ Hydrologic data addressing anticipated effects on any water bodies and hydrologic conditions;
  - c. ~~732.4.3.17.3.~~ A complete plan of the project with cross sections and dimensions, together with a detailed map of the affected area which indicates changes in the 100-year floodplain caused by the activity.
  - d. ~~732.4.3.17.4.~~ Certification by an engineer that the Standards of Section ~~801.717~~, Stormwater Management, have been met.
  - e. ~~732.4.3.17.5.~~ The signature and seal of an engineer responsible for the preparation of the Earthmoving Site Plan and an express certification by said engineer that he/she is personally familiar with the proposed earthmoving activities, that he/she has personally reviewed all elements of the Earthmoving Site Plan and that all engineering estimates or computations comply with generally accepted engineering practices.
19. ~~732.4.3.18. Completeness.~~ Applications shall be determined complete in accordance with Section ~~312.502~~ of this Code.

**Commented [LDI6]:** Reclamation standards moved below.

**Commented [LDI7]:** Sections 732.4.3.17.1 to 5 moved to the Development Review Manual.

#### E. 732.4.4. Effect of Approval of Major Earthmoving Use.

1. ~~732.4.4.1.~~ The purpose of the ~~E~~earthmoving ~~S~~site ~~P~~plan is to describe the earthmoving activities of the applicant over the life of the earthmoving project, so as to allow the overall plans to be reviewed prior to the issuance of any operating permits for particular earthmoving activities, thus enabling the ~~County~~county to ascertain whether the impacts of the activities are consistent with the public health, safety, and welfare of the ~~C~~omprehensive ~~P~~lan, and the overall development of the ~~County~~county.
2. ~~732.4.4.2.~~ Upon approval of an ~~E~~earthmoving ~~S~~site ~~P~~plan by the ~~Department Director~~Planning Director, or the Hearing Officer for Special Permit uses, the applicant may apply for an ~~O~~perating ~~P~~permit pursuant to this Section. Approval of the ~~E~~earthmoving ~~S~~site ~~P~~plan shall not vest the applicant with any rights to issuance of said ~~O~~perating ~~P~~permit, nor shall it entitle the applicant to initiate earthmoving activities; the applicant shall be required to meet all requirements for ~~O~~perating ~~P~~permits as they exist at the time of application ~~therefor~~therefore, and the ~~E~~earthmoving ~~S~~site ~~P~~plan approvals shall so expressly provide.
3. ~~732.4.4.3.~~ The applicant shall have a period of one (1) year from the date of the approval of the ~~E~~earthmoving ~~S~~site ~~P~~plan to submit an application for an ~~O~~perating ~~P~~permit. The ~~Department Director~~Planning Director may, extend the time limit for one (1) additional year. If an ~~O~~perating ~~P~~permit has not been

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applied for at the end of the one (1) year period or within any authorized extension that has been granted, the ~~E~~earthmoving ~~S~~site ~~P~~plan approval shall automatically terminate.

**F. ~~732.4.5.~~ Amendments or Variances to Earthmoving Site Plan.**

1. ~~732.4.5.1.~~ Amendments to the ~~E~~earthmoving ~~S~~site ~~P~~plan may at any time be requested by the applicant who has obtained said approval. Any significant changes as to any component of an approved ~~E~~earthmoving ~~S~~site ~~P~~plan shall be reviewed in the same manner as the original application. Significant changes shall include, but are not limited to, any change in the location or manner of excavation for the pit, any primary haul routes exiting the property, or discharge points; a change in the manner or location of dredging or filling waters of the State; or any other change that might result in increased environmental impacts. Any change made at the order or direction of any State or Federal agency shall require prompt notice to the ~~Department~~ ~~Director~~ ~~Planning~~ ~~Director~~. Failure of the holder of an approved ~~E~~earthmoving ~~S~~site ~~P~~plan to so inform the ~~Department~~ ~~Director~~ ~~Planning~~ ~~Director~~ of any significant changes in the previously approved ~~E~~earthmoving ~~S~~site ~~P~~plan or changes ordered or required by Federal or State agencies, shall constitute a violation of this Section. Approval of any change shall be a pre-requisite to commencing any actual change at the site.
2. ~~732.4.5.2.~~ Any requested amendment of an ~~E~~earthmoving ~~S~~site ~~P~~plan shall comply with the procedures outlined for an original ~~E~~earthmoving ~~S~~site ~~P~~plan application and, in addition, shall include a list of the specific item(s) to be amended, and a detailed explanation of the reasons for amendment.

**G. ~~732.4.6.~~ Transfer of any Major Earthmoving Site Plan Approval.**

1. ~~732.4.6.1.~~ Before the transfer of any ~~M~~major ~~e~~Earthmoving ~~S~~site ~~P~~plan ~~A~~approval, the applicant and the prospective transferee must apply to the ~~Department~~ ~~Director~~ ~~Planning~~ ~~Director~~ for an amendment to the original application and permit, stating in detail any changes desired in the ~~E~~earthmoving ~~S~~site ~~P~~plan.
2. ~~732.4.6.2.~~ If the transfer is approved by the ~~Department~~ ~~Director~~ ~~Planning~~ ~~Director~~, it shall be accomplished by the issuance of a "transfer excavation plan" to the transferee.
3. ~~732.4.6.3.~~ Upon acceptance of the transfer excavation plan, the transferee becomes the applicant under this Section and assumes the responsibility of compliance with all the terms of this Section effective on the date of transfer, regulations adopted hereunder, and the ~~E~~earthmoving ~~S~~site ~~P~~plan.

**H. ~~732.4.7.~~ Fees.**

A schedule of fees for ~~E~~earthmoving ~~S~~site ~~P~~plan processing shall be established and revised periodically by the Board by Resolution. These fees shall be those reasonably necessary to off-set the additional cost to the ~~County~~ ~~county~~ incurred in the adequate review of all aspects of the excavation activities, and to insure the health, safety and welfare of the citizens of Manatee County.

**702.4. Reclamation Standards**

**A. ~~732.4.3.16.1.~~ Agricultural Lands.** Land reclaimed for agricultural use shall meet the following standards:

1. ~~(1)~~ ~~Topography~~: The land shall be sufficiently level and free of holes, gullies, and washouts to permit safe operation of conventional farm and agricultural equipment; including stormwater management measures.
2. ~~(2)~~ ~~Stability~~: The land shall have settled and firmed to the extent that will support conventional farm and agricultural equipment and such that livestock will be able to walk on the surface of the land.
3. ~~(3)~~ ~~Revegetation~~: All disturbed areas shall be promptly seeded and mulched with grass mixtures of perennial and annuals, with application rates which are capable of cover establishment during the growing season for which it is applied. ~~Revegetation shall be considered complete upon demonstrating ninety (90) percent perennial vegetation cover establishment one (1) year after reclamation.~~

**B. ~~732.4.3.16.2.~~ Lakes and Other Water Bodies.** Lands reclaimed as lakes and other water bodies shall meet the following standards:

1. ~~(1)~~ ~~Shoreline Conformation~~: In order to encourage healthy circulation within created lakes, such lakes shall be designed to have regular (non-meandering) shorelines.
2. ~~(2)~~ ~~Soil Stability~~: All banks and slopes shall be stabilized with self-sustaining vegetation. No evidence of excessive erosion shall exist. No evidence of unplanned channel development shall exist.

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3. ~~(3)~~ **Area; Slopes:** For the purposes of establishing an area that will sustain fish and wildlife, and to provide a measure of non- structural water quality maintenance, the applicant shall establish a littoral zone below the mean water level either along the shoreline or within a central area of the lake or a combination of the two, meeting the following requirements: (a) the total area of the littoral zone(s) shall be a minimum of ten (10) percent of the total surface area of the lake at the mean water level; (b) if created along the shoreline, the littoral zone shall be clustered over areas not exceeding eighty (80) percent of the shoreline perimeter to ensure adequate access for maintenance and other permitted water-dependent uses. The littoral zone(s) shall be sloped or terraced at slope equal to or no greater than 5:1 ~~or greater~~, below the water line to a depth of three (3) feet; (c) if created in a central area of the lake not connected with the shoreline, the littoral zone(s) shall be constructed at depths below the mean low water line to exceed three (3) feet with side slopes at the perimeter of the littoral zone of 4:1; and (d) all other portions of the lake shoreline not sloped at 5:1 or ~~greater flatter~~ to meet littoral zone requirements shall be contoured no steeper than 2:1 from a mean depth of six (6) feet.
4. ~~(4)~~ **Perimeter Berm and Swales:** For the purposes of ensuring water quality control and to provide for a measure of long-term quality maintenance, the applicant shall construct a perimeter berm and swale system designed to intercept and filter overland runoff before allowing it to discharge into the lake, meeting the following requirements: (a) the perimeter swale shall have a maximum slope of 3%; (b) side slopes on the swale shall be no less than 4:1.; (c) spreader spillways to the lake from the berm and swale system shall be spaced and provided at regular intervals not to exceed two hundred (200) feet and shall be protected against erosion; except that (d) perimeter berm and swale systems need not be required where such lake systems interface with wetland areas and where the unrestricted water movement from one water body to another is necessary to promote proper ~~hydroperiods~~ hydro periods and biological integrity; and
5. ~~(5)~~ **Lake Depth:** Reclamation shall be completed so that the deepest parts of created lakes of the reclaimed lands shall not exceed thirty-five (35) feet in depth from the mean water level, and ninety (90) percent of the surface of the lake shall not exceed an average depth of twenty-five (25) feet from the mean high water level; further ~~Further~~, the design shall avoid a bottom configuration that would serve as a detriment to proper circulation.

**702.5. ~~718.6.2.7.~~ Earthmoving and Mining Activities within the Floodplain.**

- A. ~~718.6.2.7.1.~~ All earthmoving involving more than two hundred (200) cubic yards or disturbing more than two (2) acres and mining activities located in the ~~One Hundred (100) Year Floodplain~~ shall require approval of an earthmoving site plan approval. The Planning Director shall coordinate the review and approval of earthmoving site plans with Development Management, Public Works and other appropriate departments. This ~~The applicant~~ shall provide ~~require~~ documentation of any changes in the characteristics of the ~~One Hundred (100) Year~~ Floodplain as a result of the activity. In cases where earthmoving site plan approval is not required ~~by Section 732, Earthmoving~~, the ~~Building Official/Department Director~~ may still require Floodplain Management information.
- B. ~~718.6.2.7.2.~~ All proposals shall demonstrate conformance with the standards of the Manatee County ~~Floodplain Management Code regulations~~. A hydrologic study detailing the effects of the operation on the characteristics of the Floodway and ~~One Hundred (100) Year Floodplain~~ shall be submitted. The technical information shall include, but not be limited to, the following:
1. ~~718.6.2.7.2.1.~~ Existing and final topography, mapped to one foot contour intervals with elevations referenced to mean sea level datum, shown on a 25 foot grid;
  2. ~~718.6.2.7.2.2.~~ Hydrologic data addressing anticipated effects on any water bodies and hydrologic conditions;
  3. ~~718.6.2.7.2.3.~~ A complete plan of the project with cross sections and dimensions, together with a detailed map of the affected area which indicates changes in the ~~One Hundred (100) Year Floodplain~~ caused by the activity; and
  4. ~~718.6.2.7.2.4.~~ Certification by an engineer that the standards of this Code ~~and the Manatee County Floodplain Management Code~~ have been met.

**702.6. ~~732.5.~~ Operating Permit Requirements.**

- A. ~~732.5.1.~~ **Application for an Operating Permit.** Any persons contemplating major earthmoving activities in

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Manatee County ~~shall~~, upon securing approval of an ~~E~~arthmoving ~~S~~ite ~~P~~lan, ~~shall~~ apply for and obtain an ~~O~~perating ~~P~~ermit before commencing any earthmoving or other lot clearing activities within an approved area. An ~~O~~perating ~~P~~ermit constitutes authorization to commence specified earthmoving activities for a specified period of time, and after an affirmative showing by the applicant of compliance with the criteria and objectives of this Section. An ~~O~~perating ~~P~~ermit may contain such terms and conditions as the ~~C~~ounty ~~c~~ounty determines necessary to protect against the adverse impacts of the proposed earthmoving activities. The application for an ~~O~~perating ~~P~~ermit, on a form provided by the ~~C~~ounty ~~c~~ounty, shall be submitted to the ~~P~~ublic ~~W~~orks ~~D~~epartment Director.

**B. ~~732.5.2. Necessary Information.~~** The application for an ~~O~~perating ~~P~~ermit shall be accompanied by:

~~732.5.2.1. Documentation of necessary zoning approval.~~

- ~~1. 732.5.2.2. Documentation of ~~E~~arthmoving ~~S~~ite ~~P~~lan approval.~~
- ~~2. 732.5.2.3. Copies of necessary applications to, and any applicable approvals from federal, state, regional and local agencies.~~
- ~~3. 732.5.2.4. The fee required for review of an ~~O~~perating ~~P~~ermit application under the terms of this Section.~~
- ~~4. 732.5.2.5. Such other information or studies needed to affirmatively show compliance with the ~~O~~perating ~~P~~ermit criteria established by this Section.~~
- ~~5. 732.5.2.6. Draft of surety bonds.~~

**C. ~~732.5.3. Completeness of Application.~~** The ~~D~~epartment ~~P~~ublic ~~W~~orks Director shall determine the completeness of the application within a reasonable period of time following receipt thereof, and shall notify the applicant of its determination within that period. If the application is deemed incomplete, the ~~D~~epartment ~~P~~ublic ~~W~~orks Director shall apprise the applicant of the deficient part(s) of the application. Thereafter, the applicant shall have thirty (30) days within which to supply all necessary information. Based on the scope and extent of deficiencies, the applicant may be granted an extension of up to sixty (60) days. If such information is not supplied, the application shall be returned to the applicant as unacceptable and may reapply sixty (60) days thereafter.

**D. ~~732.5.4. Permit Approval or Denial.~~**

- ~~1. 732.5.4.1. After receipt of a complete ~~O~~perating ~~P~~ermit application, the ~~D~~epartment ~~D~~irector ~~P~~ublic ~~W~~orks Director shall review the application in accordance with the standards and criteria as contained herein and all applicable provisions of this Code. The applicant for a permit shall have the burden of providing with the application accurate and sufficient information to clearly substantiate that the application is in compliance with all of the criteria and the requirements of this Section. The ~~D~~epartment ~~D~~irector ~~P~~ublic ~~W~~orks Director shall issue, require modification of, or deny the permit, within a reasonable period of time.~~
- ~~2. 732.5.4.2. No permit shall be issued by the ~~D~~epartment ~~D~~irector ~~P~~lanning ~~D~~irector if there is found:
  - ~~a. 732.5.4.2.1. Information set forth in the application, by inspection, that the applicant cannot comply with this Section; or~~
  - ~~b. 732.5.4.2.2. That the applicant has had any other permit issued hereunder revoked, or any bond posted to comply with this Section forfeited, and the conditions causing the permit to be revoked or the bond to be forfeited have not been corrected to the satisfaction of the ~~C~~ounty ~~c~~ounty.~~~~
- ~~3. 732.5.4.3. An applicant shall have one (1) year from the date the ~~O~~perating ~~P~~ermit is issued to commence and actively conduct earthmoving activities; if earthmoving activities are not commenced and actively conducted within said time, the ~~O~~perating ~~P~~ermit shall be void and be of no effect.~~

**E. ~~732.5.5. Term of Operating Permit.~~** All ~~O~~perating ~~P~~ermits issued pursuant to the requirements of this Section shall be valid for a term not to exceed five (5) years, unless suspended, canceled, or revoked prior to that time.

**F. ~~732.5.6. Criteria for Operating Permit Issuance.~~**

- ~~1. 732.5.6.1. Compliance with Other Laws.~~ All applicable statutes or regulatory requirements of federal, state, regional and local agencies are made a part of this Section, and a violation thereof shall constitute a violation of this Section.

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2. ~~732.5.6.2~~—*Minimum Protection*. The applicant shall conduct earthmoving activities in a manner that will avoid and minimize undesirable effects of earthmoving activities and that will protect the land, water resources, natural resources, wetlands, historical sites, road systems, property rights, and the public health, safety, and welfare of the County.
3. ~~732.5.6.3~~—*Reclamation*. The applicant shall provide reasonable assurance that reclamation will proceed in accordance with the approved ~~E~~earthmoving ~~S~~site ~~P~~plan and ~~Section 732.5.42~~~~702.6.L~~.
4. ~~732.5.6.4~~—*Radiation*. The applicant shall conduct earthmoving activities in such a manner as to ensure that upon reclamation of earthmoving activities, the lands within the ~~O~~operating ~~P~~permit area have radiation levels that do not exceed the limit of total mean soil Radium 226 concentration. Representative test samples shall be taken from one six (6) foot core per each five (5) acres of disturbed lands which will not be reclaimed as lakes and shall not exceed 5.0 picocuries per gram.
5. ~~732.5.6.5~~—*Roadway Impacts and Improvements*. The applicant shall not begin any shipment on ~~County~~ county maintained roads without an approved ~~O~~operating ~~P~~permit. The transporting of all earthmoving activities shall take into consideration the impact on traffic circulation, safety, and roadway stability resulting from such shipments. Any required improvements shall be completed or satisfactorily guaranteed before such use is made of ~~County~~ county maintained rights-of-way. Such improvements shall include repairs or maintenance from damage to such rights-of-way based upon roadway conditions prior to construction expressly identified in writing by the ~~Department Director~~Transportation Director before the use of the road. If the applicant does not accomplish expeditious repair to damaged rights-of-way, the ~~County~~ county shall make such repairs at the applicant's expense. The applicant shall agree to abide by all future regulations as may be developed by the ~~County~~ county with regard to safety, loads, and frequency.
- G. ~~603.5.7.732.5.7~~ —Setback Requirements.**
1. ~~732.5.7.1~~—No earthmoving activities shall be performed within two hundred (200) feet of a naturally occurring stream bed or other water body, ~~regardless of whether the stream bed or other water body is located on or off the subject earthmoving site~~, or within fifty (50) feet of the applicant's property line, whichever ~~is~~ provides the ~~is~~ greater ~~setback from the property line~~.
2. ~~732.5.7.2~~—No excavated material, stock pile or construction equipment shall be stored on the applicant's property longer than fourteen (14) days within fifty (50) feet from an applicant's property line, natural water body, or ~~County~~ county easement.
3. ~~732.5.7.3~~—If the applicant affirmatively demonstrates that the above requirements are unreasonable under the circumstances and creates undue hardships, and that a lesser requirement would not adversely affect the public health, safety and welfare, the ~~Department Director~~Public Works Director may allow a lesser setback requirement.
- H. ~~603.5.8.732.5.8~~ —Safety Requirements.** The owner shall provide fencing at a minimum height of five (5) feet with a vertical protective barrier material such that a four (4) inch diameter sphere cannot pass through any opening, where the property is (1) open to public access or (2) within one hundred (100) feet of a arterial or (3) within five hundred (500) feet of any residentially zoned property, or (4) shall provide other suitable means of restraining public access onto the site during the period of earthmoving and reclamation activities.
- I. ~~603.5.9.732.5.9~~ —Monitoring.**
1. ~~732.5.9.1~~—The purpose of the environmental monitoring program for earthmoving activities in Manatee County is to establish baseline conditions over a one (1) year period prior to earthmoving, as deemed necessary by the ~~Department Director~~Public Works Director and subsequently to continuously evaluate compliance with applicable standards established by local, regional, state and federal agencies over the life of the permit. The one (1) year period may be reduced by the ~~Department Director~~Public Works Director based on the type of earthmoving material being mined and the type of mining operation. Operations which are currently mining and have baseline data for an area may request that this data be considered by the ~~Department Director~~Director of the Environmental Management Department and the ~~Public Works Director~~ to satisfy baseline monitoring requirements for expansion areas. The program shall consist of monitoring the following areas:
- a. ~~732.5.9.1.1~~—Surface water quality;

**Commented [LEA8]:** This was added to clarify the regulation. No new regulation is proposed.

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- b. ~~732.5.9.1.2.~~ Surface water quantity;
  - c. ~~732.5.9.1.3.~~ Radiation in soils; and
  - d. ~~732.5.9.1.4.~~ Reclamation of the site. Specific requirements of the above-mentioned components of the monitoring program will be developed on a site-specific basis according to the features of the site and the projected environmental impacts of earthmoving activities.
2. ~~732.5.9.2.~~ Each component of the environmental monitoring program will consist of the following descriptive elements:
- a. ~~732.5.9.2.1.~~ Sampling locations;
  - b. ~~732.5.9.2.2.~~ Parameters and standards;
  - c. ~~732.5.9.2.3.~~ Frequency and duration;
  - d. ~~732.5.9.2.4.~~ Methods;
  - e. ~~732.5.9.2.5.~~ Quality assurances; and
  - f. ~~732.5.9.2.6.~~ Reporting.
3. ~~732.5.9.3.~~ The applicant shall submit to the ~~Department Director~~Public Works Director copies of all environmental monitoring data/reporting required by outside agencies for the subject activity (including data on contiguous portions of any earthmoving outside of Manatee County). The data reports shall be submitted to the ~~Department Director~~Public Works Director concurrently with the submission to the requiring agency (e.g., DEP permit monitoring reports).
4. ~~732.5.9.4.~~ Modification of monitoring requirements may be made during the annual progress report process. The purpose of such modification is to add or delete sampling to reflect new developments in earthmoving and sampling technology which may improve both sampling and environmental quality. Upon mutual agreement (express written approval) by the applicant and the ~~Department Director~~Public Works Director, changes in the monitoring program can be made at any time. Additions or changes in monitoring as required by new permits or newly-enacted legislation will be implemented according to schedules prescribed by law or by the conditions of said permit.
- J. ~~732.5.10.~~ **Maintenance Plans.** The applicant shall submit to the ~~Department Director~~Public Works Director for review and express written approval, a maintenance plan for the retention ponds, expressing such issues as inspections, maintenance, repair or replacements, and restoration, as part of the total site reclamation effort.
- K. ~~732.5.11.~~ **Inspection.** The ~~County~~county is authorized to enter the premises of any earthmoving activity conducted hereunder for the purpose of inspection, to ensure compliance with the terms and conditions of the ~~Operating P~~ermit and the ~~E~~earthmoving Site Plan approval.
- L. ~~732.5.12.~~ **Financial Responsibility.** Prior to the issuance of an ~~Operating P~~ermit, an applicant shall furnish the ~~Department Director~~Public Works Director, evidence of financial responsibility in an amount based upon the total number of acres to be disturbed and haul road length during the term of the ~~Operating P~~ermit and subsequent reclamation. Such evidence of financial responsibility shall consist of the following:
- 1. ~~732.5.12.1.~~ **Reclamation Surety Bonds.** After an ~~Operating P~~ermit application has been approved by the ~~Department Director~~Public Works Director and prior to its effective date, the applicant shall file with the ~~Department Director~~Public Works Director, surety bonds, on forms provided by the ~~County~~county, payable to Manatee County, and conditioned upon the following:
    - a. ~~732.5.12.1.1.~~ Faithful performance of all the requirements of this Section, the ~~Operating P~~ermit, and satisfaction of all claims and demands incurred for the same;
    - b. ~~732.5.12.1.2.~~ Full indemnification of the ~~County~~county from all costs and damages that the ~~County~~county might suffer by failure to do so; ~~and~~
    - c. ~~732.5.12.1.3.~~ Full reimbursement and repayment to the ~~County~~county for outlays and expenses the ~~County~~county may incur in making good any noncompliance or nonperformance;
    - d. ~~732.5.12.1.4.~~ The bond shall further be conditioned upon the applicant protecting, defending,

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indemnifying, and holding harmless the ~~County~~ county from any suits, actions, claims, losses, or damage of any character (and from all expenses incidental thereto) based upon or arising out of any damage to person or property caused by or arising from any act, omission, performance, nonperformance of the applicant, its office agents, servants, employees, or others under the applicant's direction and control, but not including the sole negligence of the ~~County~~ county;

~~e. 732.5.12.1.5.~~ The bond may be secured by a corporate surety licensed to do business in the ~~State Florida~~ and approved by the ~~County~~ county, or by deposit in a state banking institution, or by real property, pursuant to rule. The bond shall be conditioned so that the surety cannot cancel the bond within less time than ninety (90) days of certified written notice to the ~~Department Director~~ Public Works Director. Any cancellation of the bond shall result in automatic suspension of the ~~Operating P~~ permit and immediate cessation of all activities;

~~f. 732.5.12.1.6.~~ If for whatever reason, the surety contemplating a change to the bond status, termination thereof, or the property owner intends to change the status of the bond or surety companies, the property owner or surety shall notify the ~~Department Director~~ Public Works Director in writing, at least ninety (90) days prior to such action. Said notification shall include all particulars for the proposed change or termination. It shall be the obligation of the property owner to insure continued compliance with this Code at all times. The ~~Department Director~~ Public Works Director shall coordinate with the County Attorney's office to take any necessary and appropriate action in accordance with the provisions of this Section;

~~g. 732.5.12.1.7.~~ The surety bonds shall cover that area of land within the permit area upon which the applicant will initiate and conduct activities within the terms of the permit. As succeeding increments of earthmoving and reclamation activities are projected to be initiated and conducted within the ~~E~~ earthmoving ~~S~~ site ~~P~~ plan area, and subsequent to the issuance of additional operating permits, the applicant shall, if necessary, file with the ~~Department Director~~ Public Works Director an additional surety bond or bonds to cover such increments in accordance with this Section. Separate bonds shall also be secured for the principal haul routes to be used by the applicant, subject to the approval of the ~~Department Director~~ Public Works Director. The amount of the bonds shall be one hundred thirty (130) percent of the reclamation cost per acre and roadway section to be bonded, as certified by the applicant's engineer of record, subject to the review and express written approval of the ~~Department Director~~ Public Works Director and the County Attorney; and

~~h. 732.5.12.1.8.~~ Unless prohibited by law, an action on this bond may be brought by the ~~County~~ county or any other persons entitled to the benefits of the bond at any time within one (1) year of the ~~County's~~ county's final written acknowledgement of reclamation compliance. The applicant and surety shall be jointly and severally liable under the provisions of the bond, and actions against either or both may proceed without prior action against the other, and both may be joined in one action. The amount of the bond may be reduced upon final written acknowledgement of reclamation compliance to a minimum of ten (10) percent of the reclamation cost stipulated above.

~~2. 732.5.12.2.~~ *Forfeiture.* If at any time the ~~County~~ county finds that earthmoving activities are not proceeding in accordance with the ~~Operating P~~ permit and that the applicant has failed, within thirty (30) days after written notice, to satisfactorily undertake corrective action, the ~~County~~ county shall initiate proceedings against the bond. Such proceedings shall not be commenced with respect to a surety bond insuring performance until the surety has been given sixty (60) days to commence and a reasonable opportunity to begin and complete corrective action. The ~~County~~ county shall initiate such proceedings in any court of competent jurisdiction. In such proceedings, the damages shall include ~~County's~~ county's costs for engineering, survey, emergency repairs, and a reasonable attorney's fee; provided however, that the damages shall not be limited to the reasonable value of the land prior to the earthmoving activities.

**M. 732.5.13. — Fees.** A schedule of fees for review of an ~~operating~~ operating ~~P~~ permit shall be established and revised periodically by the Board by resolution. These fees shall be those reasonably necessary to offset the additional, extraordinary cost to the ~~County~~ county incurred in the adequate review of all aspects of earthmoving activities, and to ensure the health, safety and welfare of the citizens of Manatee County.

**N. 732.5.14. — Operating Permit Amendment, Transfer and Renewal.**

~~1. 732.5.14.1.~~ *Amendment of Operating Permit.* Amendment of an issued ~~Operating P~~ permit shall follow the same procedures prescribed for the initial submission of the operating permit outline under **Section**

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~~732.5.702.6.~~~~2. 732.5.14.2. Transfer of Permit.~~

- ~~a. 732.5.14.2.1. Before the transfer of any ~~Operating Permit~~, the applicant and the prospective transferee must apply to the ~~Department Director~~~~Public Works Director~~ for an amendment to the original application and permit, stating in detail any changes desired in the ~~Operating Permit~~.~~
- ~~b. 732.5.14.2.2. At the same time as the application for transfer, the prospective transferee must also furnish proof of financial responsibility as is required by ~~Section 732.5.12702.6.L~~ Financial Responsibility.~~
- ~~c. 732.5.14.2.3. If the transfer is approved by the ~~Department Director~~~~Public Works Director~~, it shall be accomplished by the ~~Department Director~~~~Public Works Director~~ issuing a "transfer operating permit" to the transferee.~~
- ~~d. 732.5.14.2.4. Upon acceptance of the transfer permit, the transferee becomes the applicant under this Section and assumes the responsibility of compliance with all terms of this Section effective on the date of transfer, regulations adopted hereunder, and of the ~~Operating Permit~~.~~

~~732.5.15. Subsequent Permit Procedures.~~

~~O. At least six (6) months prior to the expiration of the ~~Operating Permit~~, the applicant shall submit to the ~~Department Director~~~~Public Works Director~~ an application for a new ~~Operating Permit~~. Under the provisions of the application, the ~~Department Director~~~~Public Works Director~~ shall examine the application as to its completeness, advising the applicant in writing of its completeness or of any inadequacies, deficiencies, or omissions in the application within sixty (60) days of receipt thereof. If the ~~Department Director~~~~Public Works Director~~ requests additional information, the applicant shall have thirty (30) days to correct such deficiencies or provide the requested information, or to notify the ~~Department Director~~~~Public Works Director~~ in writing that such extension is necessary to prepare the requested information. Upon receipt of the necessary information, in compliance with ~~Department Director~~~~Public Works Department~~ requests, the application shall be deemed complete. Within a reasonable period of time following the filing of the complete application, the permit application shall be reviewed by the ~~Department Director~~~~Public Works Director~~. The then current ~~Operating Permit~~ shall continue in existence until the final decision on the new permit is rendered by the ~~Department Director~~~~Public Works Director~~.~~

~~732.5.16. Fees.~~

~~P. A schedule of fees for permit amendment, transfer, and renewal shall be established and revised periodically by the Board by resolution. These fees shall be those reasonably necessary to offset the additional, extraordinary cost to the ~~County~~~~county~~ incurred in the adequate review of all aspects of the permit amendment, and to insure the health, safety and welfare of the citizens of Manatee County. Such costs are more justly borne by the applicant, who will receive direct, financial benefit from earthmoving activities in Manatee County.~~

~~732.5.17. Annual Progress Reports and Acknowledgements of Compliance.~~

- ~~1. 732.5.17.1. Progress Reports. Operators holding valid ~~Operating Permits~~ shall file with the ~~Department Director~~~~Public Works Director~~ within forty-five (45) days after the anniversary date of permit approval, a written report, in ten (10) copies, reviewing the reclamation progress for the year preceding the anniversary date, identifying lands reclaimed to date and identifying lands planned for reclamation during the current year. The annual report shall provide all detailed plans for the coming year that were not previously provided in the ~~Operating Permit~~ application. Financial responsibility shall be reviewed and updated to reflect earthmoving and reclamation progress.~~
- ~~2. 732.5.17.2. Engineer. - An ~~A licensed~~ engineer, commissioned by the applicant and familiar with the applicant's earthmoving activities and site, shall certify in a written annual report to the ~~Department Director~~~~Public Works Department~~ that the project is being developed and operated according to the conditions set forth in the approved ~~Operating Permit~~ and in accordance with generally accepted engineering practices. These reports shall be submitted to the ~~Department Director~~~~Public Works Director~~ and reviewed by the appropriate ~~County~~~~county~~ departments. The operator (applicant) shall also furnish the ~~Department Director~~~~Public Works Director~~ with copies of all inspection reports required by and furnished to other regulatory agencies.~~

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3. ~~732.5.17.3. Failure to File.~~ Failure to file the required annual progress report shall be grounds for suspension of the ~~Operating Permit~~. An extension of time for filing may be granted by the ~~Department Director~~~~Public Works Director~~ upon request for good cause shown.
4. ~~732.5.17.4. Fees.~~ A schedule of fees for the annual progress report shall be established and revised periodically by the Board by resolution. These fees shall be those reasonably necessary to offset the additional extraordinary cost to the ~~County~~~~county~~ incurred in the adequate review of all aspects of the progress report, and to insure the health, safety and welfare of the citizens of Manatee County. Such costs are more justly borne by the applicant, who will receive direct financial benefit from earthmoving activities in Manatee County. A fee for processing of the annual progress report shall be paid by the applicant at the initiation of such review.
- R. ~~732.5.18. Acknowledgement of Compliance.~~ Acceptance of reclaimed areas by the ~~Department Director~~~~Public Works Director~~ shall be obtained by written application of the applicant to the ~~Department Director~~~~Public Works Director~~, identifying the lands and requesting acceptance within the requirements of this Section. Within a reasonable period of time thereafter, the ~~Department Director~~~~Public Works Department~~ shall either give a written acknowledgement of reclamation compliance or advise the applicant in writing why the subject site and haul road fails to meet the reclamation requirements. Approval of completion of reclamation requirements for a given ~~Operating Permit~~ shall be issued by the ~~Department Director~~~~Public Works Director~~ when the required subject site and haul road has been accepted. The bond required by this Section may be revised.
- 702.7. ~~732.6. Administration of this Section.~~**
- A. ~~732.6.1. Prohibitions.~~ It shall be a violation of this Section and it shall be prohibited:
1. ~~732.6.1.1.~~ To cause pollution, except as otherwise allowed in this Section, so as to injure human health or welfare, animal, plant, or aquatic life, or property;
  2. ~~732.6.1.2.~~ To fail to obtain any permit or approval required by this Section or by rule or regulation, or to violate or to fail to comply with any rule, regulation, order, permit conditions, or approval adopted or issued by the ~~County~~~~county~~ pursuant to its lawful authority;
  3. ~~732.6.1.3.~~ To knowingly make any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under this Section, or to falsify, tamper with, or knowingly render inaccurate any monitoring device required to be maintained under this Section or by any permit or approval issued under this Section; ~~and or~~
  4. ~~732.6.1.4.~~ To fail to timely inform the ~~County~~~~county~~ of any significant changes in the approved ~~Earthmoving Site Plan~~ or the terms and conditions of the ~~Operating Permit~~. Any change in the location or construction of slime ponds, discharge points or changes reasonably expected to create increases in any air or water pollution shall be deemed significant and a violation of this Section.
- B. ~~732.6.2. Notice of Violation.~~
1. ~~732.6.2.1.~~ The applicant shall provide the ~~Department Director~~~~Public Works Director~~ with copies of any notice of violation, noncompliance order, stop-work order, or other written notification by any state or federal agency of any alleged violation of or failure to comply with any law, Code, regulation, or order, within twenty-four (24) working hours of receipt of such notification by the applicant. Failure to provide such copy to the ~~Department Director~~~~Public Works Director~~ shall constitute a violation of this Section, subject to all penalties provided hereunder.
  2. ~~732.6.2.2.~~ If at any time during the term of the permit the applicant fails to comply with this Section, with appropriate rules and regulations of other departments of the ~~County~~~~county~~, the State of Florida, or the Federal government, or with the terms of the ~~Operating Permit~~, the ~~Department Director~~~~Public Works Director~~ shall immediately issue an order notifying the applicant in writing of necessary corrective measures to be instituted within a specific period of time. Upon receipt of a Notification of Violation, the applicant shall cease all earthmoving activities until compliance with the ~~County~~~~county~~ order is confirmed in writing by the ~~Department Director~~~~Public Works Director~~.
- C. ~~732.6.3. Pollution.~~ No earthmoving activity shall pollute land or water, or damage aquatic or marine life, wildlife,

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birds, public or private property, or allow any extraneous matter to enter or damage any mineral or fresh water-bearing formation.

- D. ~~732.6.4.~~—Liability.** If pollution or damage occurs, other than such pollution or damage specifically authorized by the applicable ~~E~~earthmoving ~~S~~site ~~P~~plan approval, or ~~O~~operating ~~P~~ermit within any earthmoving site; from the operations of any person subject to Paragraph 732.6.3. Pollution, and thereby damages or threatens to damage human, animal or plant life, public or private property, or any mineral or water-bearing formation; said person shall be liable for all costs of clean up or other damages incurred by Manatee County and for damages resulting from injury to others.
- E. ~~732.6.5.~~—Proof.** In any suit to enforce claims of Manatee County or others under this Section, it shall not be necessary for the claimant to plead or prove negligence in any form or manner. The claimant need only plead and prove the fact of the prohibited damage or polluting condition and that it occurred in violation of this Section at the facilities of the person conducting earthmoving operations pursuant to this Section.
- F. ~~603.6.6.732.6.6.~~—Asphalt Processing or Manufacturing in Conjunction with Earthmoving of Sand and Shell.** Asphalt processing or manufacturing in conjunction with major earthmoving of sand and shell, shall be allowed as an accessory use to major earthmoving of sand provided that such manufacturing facilities are located at least one-half (½) mile from any residence or platted residential subdivision when installed; provided that sand and shell processing facilities are present on the site; and further provided that no noise, dust, or fumes from such operation are discernible at or beyond the lot line and that the operation meets the air pollution standards of the ~~HRS/Manatee County Public Health Unit~~[Manatee County Health Department, Environmental Health Services](#). The process required to establish the accessory asphalt plant shall be the same process required to establish the major earthmoving use, pursuant to figure 6-1 of this Code. For the purpose of this section, the term "site" may include contiguous parcel(s) in another jurisdiction provided that the total site is under common ownership. Should the major earthmoving activity in both jurisdictions cease operation, the asphalt processing or manufacturing operation shall also cease. In the event that the major earthmoving activities are located in an adjacent jurisdiction, the developer shall submit copies of any reports required by the adjacent jurisdiction to the ~~Manatee Department Director~~[Public Works Director of Manatee County](#). Upon installation of such plant, the developer shall submit to the ~~Department Director~~[Public Works Director](#) a Certificate of Compliance, signed and sealed by ~~an a~~[licensed](#) Engineer, certifying that the installation meets all the above-stated performance standards. Similar Certificates shall thereafter be submitted at yearly intervals, while the plant is in operation.
- G. ~~732.6.7.~~—Modification of Requirements.** In zoning districts where earthmoving is permitted the ~~Department Public Works Director~~ may modify any of the requirements of this Section if the ~~Department Director~~[Public Works Director](#) finds that the strict enforcement of such requirements would impose an unreasonable restriction on the use of the property, and that such modification will not adversely affect the health, safety and welfare of the public. In order to obtain such a modification, the person requesting the same shall apply in writing to the ~~Department Director~~[Planning Director](#), stating in the application the requirement sought to be modified, any proposed alternative procedure, and facts sufficient to show that such modification shall not adversely affect the interest of the general public. After receiving recommendations from appropriate County departments, the ~~Department Director~~[Planning Director](#) may either grant, or deny the application for modification.

### Section 703. Reserved.

## Part II. Natural Resources Protection.

### Section 704. ~~738~~Groundwater/Wellhead Protection.

#### 704.1. ~~738.1.~~—Purpose.

The purpose of groundwater protection standards is to safeguard the health, safety, and welfare of the citizens of the ~~County~~[county](#). This is accomplished through ensuring the protection of the principal source of water for domestic,

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agricultural, irrigation and industrial use. The availability of adequate and dependable supplies of good water is of primary importance to the future of Manatee County. Therefore, standards are described in this section with the intent of protecting both the quantity and quality of the groundwater supply. It is further the intent of this section to control development adjacent to major wellheads to protect water supplies from potential contamination.

**704.2. — ~~738.2.~~ Standards.**

- A. ~~738.2.1.~~** All applications for development approval must specify whether major groundwater wells with permitted capacity of 100,000 GPD or greater, or a well casing of six (6) inches or larger diameter, will be required to service the development. When major wells are to be required, the project applicant shall demonstrate that:
- 1. ~~738.2.1.1.~~** There will be no significant adverse impact on minimum groundwater levels; ~~and~~
  - 2. ~~738.2.1.2.~~** There will be no significant adverse impact from saltwater intrusion; ~~and~~
  - 3. ~~738.2.1.3.~~** Requirements of this Code will have no adverse impact on existing land uses in the vicinity.
- B. ~~738.2.2.~~** Wherever adverse groundwater withdrawal impacts have been identified through water quality and quantity monitoring activities, all development approvals for activities that require the use of groundwater wells shall be coordinated with and approved by the Southwest Florida Water Management District and ~~HRS/Manatee County Health Department, Environmental Health Services~~ ~~Public Health Unit~~.
- C. ~~738.2.3.~~** All site plans that accompany applications for development approval shall depict the location of all active and inactive wells. Where abandonment of wells is reasonably necessary to protect the groundwater resources, the development approvals shall be conditioned upon the submission of a management plan which provides for the proper abandonment or rehabilitation of existing unused wells, in conformance with requirements of ~~HRS/Manatee County Public Health Unit~~ ~~Manatee County Health Department, Environmental Health Services~~ and the Southwest Florida Water Management District, pursuant to Chapter 373, Florida Statutes, Chapters 40D-3, 17-524, 17-531, 17-532, and 17-555, Florida Administrative Code, and all provisions in the interlocal agreement between Manatee County and the Southwest Florida Water Management District.
- D. ~~738.2.4.~~** In addition to the requirements set forth in ~~subsection C~~ **Section 738.2.3**, above, two exclusionary areas shall be established around any major wellhead:
- 1. ~~738.2.4.1.~~** The area within two hundred (200) feet of an existing or designated major wellhead shall be a zone of exclusion, where no new commercial or industrial development nor septic tanks, leaching fields and facilities delineated under ~~subsection 2, 738.2.4.2~~ below shall be permitted.
  - 2. ~~738.2.4.2.~~** Within a designated zone of secondary exclusion, extending one thousand (1,000) feet from a designated major wellhead, the following uses shall be prohibited:
    - a.** Landfills;
    - b.** Facilities for the bulk storage, handling, or processing of materials on the Florida Substance List (Chapter 442, Florida Statutes); wellhead emergency generator requirements are exempted, but require the highest level of engineering standards covering petroleum product storage and delivery;
    - c.** Commercial or industrial uses of materials covered under Chapter 442, Florida Statutes (Florida Substance List), and Chapter 38F-41, Florida Administrative Code, unless served by approved wastewater treatment facilities;
    - d.** Junkyard or salvage operations;
    - e.** Mines;
    - f.** Wastewater treatment plants and similar facilities; ~~and~~
    - g.** Pesticide Storage Facilities; ~~and~~
    - h.** Animal Feed Lots.

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~~E. 738.2.5.~~ Any proposed development within the exclusionary zones that requires an ~~A~~administrative or ~~S~~special ~~P~~permit, ~~P~~preliminary or ~~F~~final ~~S~~site ~~P~~plan, or ~~P~~preliminary or ~~F~~final ~~P~~plat approval shall include with the application a groundwater/wellhead impact report. The purpose of this report is to provide evidence of the probable impact of the proposed development on the groundwater supply and recharge potential of the area. The report shall also identify all existing land uses within the exclusionary zones for the subject major wellhead.

~~A.F. 738.2.6.~~ Well Construction. All wells constructed in Manatee County shall conform to the laws and regulations set forth in ~~Section 704.2.C.738.2.3~~ above.

### **Section 705. ~~Section 721.~~ Habitat, Wildlife and Endangered Species Protection.**

#### **705.1. ~~721.1.~~ Purpose and Intent.**

It is the purpose of this ~~S~~section to provide standards necessary to protect critical habitat and the habitats for both flora and fauna of species of endangered, threatened, or special concern status in the ~~C~~county, and to ensure that an appropriate amount of land shall be set aside and/or protective management plan instituted to protect habitat of endangered, threatened or special concern plant and animal species.

#### **705.2. ~~721.2.~~ Standards for Development.**

~~A. a. 721.2.1.~~ The "Hotspot of Biodiversity Map" in the Conservation Element of the Manatee County Comprehensive Plan identifies critical habitat and habitats for endangered species, threatened species, or species of special concern.

~~B. b. 721.2.2.~~ Development proposed in areas which have been identified pursuant to ~~S~~subsection ~~A~~721.2.1, above, shall be required to provide a study consistent with ~~Objective 3.3.2 Policy 3.3.2.3~~ of the Comprehensive Plan, prepared by a professional, approved by the ~~Department Director Environmental Management Department~~ as being qualified for this purpose, to document the presence of affected species, the habitat needs of the species which may be observed on the development site, and to propose appropriate habitat management plans.

**Commented [LD19]:** Policy 3.3.2.3 is reserved in the comp plan.

~~C. c. 721.2.3.~~ The preservation of native upland habitat shall be required in areas of the project where the study prepared pursuant to ~~S~~subsection ~~B~~721.2.2, above, confirms that critical habitat or habitat for endangered, threatened or special concern species exists within the project boundaries. Such land shall be adjacent to existing habitat, a significant wetland system, floodplain, or wildlife corridor. If such ~~existing~~ lands are not adjacent to the development site, land to be set aside shall be of such quantity and quality as to provide viable habitat, as documented in the study required in ~~S~~subsection ~~B~~721.2.2, above. When a significant number of a ~~S~~species of ~~S~~special ~~C~~concern are on-site, and the habitat is deemed viable, the applicant shall provide the ~~C~~county with a ~~S~~species ~~M~~management ~~P~~plan that has been approved by the ~~Florida Game and Freshwater Fish Commission~~ Florida Fish and Wildlife Conservation Commission (FFWCC).

#### **705.3. ~~721.3.~~ Review Procedures.**

~~A. 721.3.1. Department Director Review.~~ The ~~Department Director Planning Director and the Environmental Management Director~~ shall review studies prepared in accordance with ~~subsection B, 721.2.2 above~~, for the location of endangered, ~~or~~ threatened ~~species~~, or species of special concern as required by ~~Objective 3.3.2 policies 3.3.2.3.1 and 3.3.2.4~~ of the Manatee County Comprehensive Plan. Where such review of studies accompanying application for development approval or other available data concerning ~~endangered, threatened, or such~~ species of ~~special concern~~ indicates the suspected occurrence of ~~endangered, threatened, or such~~ species of ~~special concern~~ on a proposed development site, the applicant for the development approval shall be notified of a minimum requirement to:

~~1. 721.3.1.1.~~ Elect to take no further action regarding determination of suspected habitat of threatened, ~~or~~ endangered ~~species~~ or species of special concern on site, at the risk of subsequent review and comment by reviewing agencies, which may result in the conditioning of final development order approval by Manatee County,

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~~2. 721.3.1.2.~~ Elect to conduct, at the applicant's own expense, an evaluation of the proposed development site for habitat of endangered ~~or~~ threatened species, and species of special concern. Such evaluation shall contain, at a minimum:

- ~~a. 721.3.1.2.1.~~ Date(s) of field review~~;~~
- ~~b. 721.3.1.2.2.~~ Name of individual and organization conducting the field review~~;~~
- ~~c. 721.3.1.2.3.~~ Qualification of individual or individuals conducting the field review~~;~~
- ~~d. 721.3.1.2.4.~~ A brief statement of the methodology used to conduct the investigation of the site~~;~~
- ~~e. 721.3.1.2.5.~~ A map of land use and land cover classifications on the site using a classification system described in one of the following publications:
  - ~~i. 721.3.1.2.5.1.~~ Land Use, Cover and Forms Classification System: A Technical Manual. State of Florida, Department of Transportation~~;~~ May 1981 (Preferred)~~;~~ or
  - ~~ii. 721.3.1.2.5.2.~~ The Florida Land Use and Cover Classification System; A Technical Report. State of Florida, Department of Administration~~;~~ April 1976~~;~~
- ~~f. 721.3.1.2.6.~~ A list of species observed on the site~~;~~
- ~~g. 721.3.1.2.7.~~ A map showing the exact location and an assessment of any habitat of threatened ~~or~~ endangered species, or species of special concern encountered on the site, and any evidence of habitation of areas on the site by such species discovered during the field review~~;~~ and
- ~~h. 721.3.1.2.8.~~ A habitat management plan describing any measures which are proposed by the applicant for non-disturbance, or species relocation or other mitigation~~mitigative~~ measures regarding the protection of any threatened or endangered species found on the site.

~~B. 721.3.2. Agency Comments.~~ The ~~Department Director~~ Planning Director shall submit a copy of the field evaluation to the appropriate agency or agencies with jurisdiction over the discovered species. The ~~Department Director~~ Planning Director shall request comment from such agency or agencies within thirty days of transmittal of the applicant's report. The agency may also be requested to provide, comment on any management strategies that may have been proposed by the applicant in their report, and provide recommendations on a preferred species management strategy for consideration.

~~C. 721.3.3. Threatened or Endangered Species.~~ Development approvals for projects that contain or are proximate to locations of habitat occupied by threatened or endangered species may limit ~~or~~ preclude development or redevelopment (but not removal) of habitable structures, impervious surfaces, and other uses as determined by the ~~Department Director~~ Planning Director, within an appropriate distance of locations or defined areas classified as habitat for any threatened or endangered species, if such measures are deemed appropriate for the continued viability of such habitat.

~~D. 721.3.4. Species Management Plan.~~ Whenever a significant number of species of special concern, listed by the ~~Florida Game and Freshwater Fish Commission (FGFWFC)~~ FFWCC, are found through an evaluation of a proposed development site, and the species habitat on the project site is determined to be viable, a ~~S~~ species ~~M~~ management Plan approved by the ~~FGFWFC~~ FFWCC may be developed and utilized as the basis for development approval conditions or changes to site design to achieve compliance with policies contained in the Manatee County Comprehensive Plan.

#### ~~705.4. 721.4. Specific Protection Measures.~~

~~A. 721.4.4. Compliance.~~ All development shall be required to comply with regulations contained in Section 701.715, Landscaping, of this Code and with Objective 3.3.2 ~~Section 3.3.7.1~~ of the Manatee County Comprehensive Plan regarding native habitat protection.

~~B. 721.4.1. West Indian in Manatee.~~ All development found to be wholly or partially within the range of the West Indian ~~manatee~~ Manatee shall adhere to the Florida Department of Environmental Protection (FDEP) guidelines for protection of the species. The following use restrictions shall apply:

- ~~721.4.1.1. No wake zones shall be established for all basins at existing and new marina-type uses and multi-family docking facilities.~~

**Commented [LDI10]:** There is no policy 3.3.7.1 in the comp plan.

**Commented [LDI11]:** Sections 721.4.1.1 and 2 deleted as directed by the CAO.

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~~721.4.1.2. Slow speed zones shall be established for all access channels to marina-type uses and multi-family docking facilities. All development within or adjacent to slow speed zones shall be required to post appropriate signage. Such signage may be shared by one or more projects.~~

1. ~~721.4.1.3. Posting and maintenance of government signs at marina-type uses and their access channels shall be provided, funded, and maintained by the affected marina-type use.~~
2. ~~721.4.1.4. New boat ramps and waterfront structures shall be located away from sites of high manatee concentrations.~~
3. ~~721.4.1.5. Fadeproof~~ ~~eye-catching~~ ~~eye-catching~~ educational displays at every boat ramp and marina shall be posted to alert boaters to possible presence of manatees and apprise them of boating regulations in the area. ~~Any sign that is damaged or removed shall be replaced within thirty (30) days.~~
4. ~~721.4.1.6. The density of multi-family docking facilities and single-family docks shall not exceed one power boat slip for every one hundred (100) feet of shoreline owned. Additional slips over the 1:100 foot ratio shall be designated as sail boat only, provided that construction of additional slips shall not result in destruction of manatee habitat, and appropriate enforcement mechanisms shall be developed to ensure compliance.~~

**C. 721.4.2. Special Habitat Delineation.** All applications for development approval shall be required to show the location of ~~certain~~ existing habitats ~~of the following types~~ that may be contained within the proposed development site or within ~~fifty (50)~~ feet of the development's boundary. The ~~Planning Department~~ ~~Building and Development Services Department~~, ~~based upon recommendations from the Environmental Management Department~~, shall determine if the proposed development activities will adversely affect the ~~above listed~~ ~~following~~ habitats. If the project is found to have potentially significant adverse impacts, appropriate mitigation conditions shall be attached to the development approval, as required by the US Fish and Wildlife Service or the ~~FWCC~~ ~~Florida Game and Freshwater Fish Commission~~. ~~The following types of existing habitats shall be shown:~~

1. ~~(1)~~ Mangrove swamps;
2. ~~(2)~~ Tidal marshes;
3. ~~(3)~~ ~~Seagrass~~ ~~Sea grass~~ beds;
4. ~~(4)~~ Oyster beds;
5. ~~(5)~~ Coastal streams;
6. ~~(6)~~ Freshwater wetlands (swamps, marshes, sloughs, wet prairies, and heads);
7. ~~(7)~~ Hammocks (mesic or xeric);
8. ~~(8)~~ Pine prairies (pine flatwoods or dry prairies); ~~and~~
9. ~~(9)~~ Scrubs (sand pine scrubs, scrubby flatwoods, turkey oak ridges).

**D. 721.4.3. Critical Habitat/Upland Preservation Identification and Protection.** All critical habitat and upland preservation areas required by this Code or other applicable ~~S~~state or ~~F~~federal agencies shall be clearly staked or otherwise physically identified in the field prior to and during construction. Erosion and sediment control devices or other protective barriers shall be installed landward of the edge of the critical habitat, upland preservation and conservation areas prior to commencement of construction, and shall be inspected and maintained on a regular basis until construction has been completed.

## Section 706. ~~719.~~ Wetland Protection.

**706.1. ~~719.1.~~ Purpose and Intent. The purpose and intent of this Section are as follows.**

**A. ~~719.1.1.~~ Purpose.** It is the purpose of this Section to implement Goal 3.3 of the Manatee County Comprehensive Plan, which provides policies that:

1. ~~(a)~~ Prohibit wetlands impacts except in cases where no other practical alternative exists that will permit a reasonable use of land or where there is an overriding public benefit;

Commented [LDI12]: Per Ordinance 13-04

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- 2. ~~(b)~~ Require delineation of all wetlands on any proposed development or redevelopment site;
- 3. ~~(c)~~ Require mitigation of all wetland impacts; and
- 4. ~~(d)~~ Require protection of preserved wetlands from development impacts through wetland buffers and other measures.
- 5. The non-existence of wetland vegetation alone shall not exempt a project from complying with Wetland Protection Policies of the Comprehensive Plan and Land Development Code.

Commented [LDI13]: moved from definition of "wetland"

**B. 719.1.2-Intent.** The intent of this Section is to preserve and protect the wetland functions of water quality enhancement, climatic moderation and flood and erosion control; to protect the renewable resources of water, timber, energy and food; and to protect the beneficial uses of wetlands by humanity and animals. Specifically, this Section is intended to:

- 1. ~~(a)~~ Provide long-term wetland protection by directing growth away from sensitive areas through land use regulations;
- 2. ~~(b)~~ Provide additional protection to those wetlands not within the jurisdiction of other reviewing agencies that require mitigation for wetland impacts;
- 3. ~~(c)~~ Prevent the piecemeal or cumulative losses over time that may destroy remaining wetlands;
- 4. ~~(d)~~ Prevent damaging or destroying wetlands that would threaten the public safety and general welfare or cause nuisances by destroying flood storage areas, causing water pollution, disposing of storm water runoff at inappropriate sites, increasing ~~erosion~~ erosion, or increasing runoff of sediment and storm water;
- 5. ~~(e)~~ Minimize the disruption of wetland functions by ~~requiring~~ requiring a Wetland Impact Study for development activities proposed within wetlands and their wetland buffers;
- 6. ~~(f)~~ Consider the impact of development activities on wetlands functions through the County land development regulation process;
- 7. ~~(g)~~ Regulate development activities according to wetland significance, with the degree of protection afforded a wetland being in direct relationship to the significance of a wetland;
- 8. ~~(h)~~ Use performance standards as the basis for minimizing the impact of development activities on wetland functions;
- 9. ~~(i)~~ Provide for the use of wetlands for compatible activities that do not disrupt wetland functions; and
- 10. ~~(j)~~ Provide for flexibility through the availability of mitigation/restoration measures where more beneficial environmental results can be achieved.

**706.2. ~~719.2- Wetland Identification and Verification.~~**

- A. The landward extent of wetlands shall be determined in accordance with Chapter 62-340 of the Florida Administrative Code.
- B. ~~719.2.1 Wetland Verification~~ All applicable State or Federal permits shall be obtained before commencement of the development. Projects that would not otherwise require an ERP shall provide an approved formal Jurisdictional Determination from the State prior to commencement of development, except for applications for ~~a~~ individual single family homes, provided a wetland determination has been performed by a professional qualified for this purpose. Manatee County may suspend any development orders, issue stop work orders and otherwise take enforcement actions pursuant to Chapter 12, LDC, where the difference between an estimate of wetland areas and functions shown on preliminary plans and the approved ERP are determined to be significant enough to warrant substantial project.

**706.3. ~~719.3-General Prohibition; Exemptions.~~**

- A. **Prohibition.** No development, as defined in this Code, shall occur in a wetland or wetland buffer unless approved in accordance with this Section ~~719~~.
- B. **719.3.1-Exemptions.** The requirements of this Section ~~719~~ shall not apply to the following activities, which the

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Board hereby finds to comply with the requirements of Objective 3.3.1 of the Comprehensive Plan by nature and purpose:

1. ~~(a)~~ Manual clearing of nuisance exotic plant species or noxious endemic vegetation such as poison ivy or cattails;
2. ~~(b)~~ Minor maintenance or minor emergency repair to existing structures or improved areas;
3. ~~(c)~~ Overhead utility crossings, provided that associated access roads shall be subject to the requirements of this Section;
4. ~~(d)~~ Maintenance, together with incidental dredge and fill activities in ditches, public roads and other rights-of-way, and other related drainage systems;
5. ~~(e)~~ Mosquito or aquatic weed control activities permitted by federal, state, regional or local agencies;
6. ~~(f)~~ Alterations of wetlands affected by phosphate mining activities, which shall be governed by Chapter 2-20 of the Manatee County Code of Ordinances;
7. ~~(g)~~ Those activities exempted by the Florida Department of Environmental Protection pursuant to the provisions of Chapter 62- 312, Florida Administrative Code, to the extent that such activities are not prohibited by other provisions of this Code or policies of the Comprehensive Plan;
8. ~~(h)~~ Clearing and/or construction of walking trails in compliance with the specifications of this Section ~~719~~; and
9. ~~(i)~~ Construction of timber boardwalks/catwalks for direct access to waterbodies, wildlife management shelters, footbridges, observation decks and similar water-related structures not requiring dredging and/or filling for their placement in compliance with the specifications of this Section ~~719~~ of this Code. All such structures shall be elevated on pilings to permit the unobstructed flow of water and movement of wildlife, to minimize shading of the area beneath the structure, and to preserve the natural contour of the wetland. Excavation and filling of irrigation or drainage ditches in uplands on non-hydric soils that are not treated as wetlands by the State.

#### ~~706.4.~~ **719.4 Application for Wetland Impacts.**

**A. Wetland Impact Study.** ~~In order to receive approval for a wetlands impact, an~~ The applicant shall submit a Wetland Impact Study to the County for approval prior to commencement of any development activity within wetlands not expressly exempted in this ~~Chapter~~ **Section 719**. The ~~approval of development request to develop~~ within a wetland or wetland buffer shall be made in conjunction with, or as a component of, the related development approval ~~for the entire site, such that: it can be reviewed and approved by the approving authority (Department Director, Hearing Officer or Board) reviewing the proposed development.~~

- ~~(a) Development in a wetland or wetland buffer associated with a proposed development that is the subject of administrative approval pursuant to Chapter 5 hereof shall be subject to the approval of the Director;~~
- ~~(b) Development in a wetland or wetland buffer associated with a proposed development that is the subject of approval by a Hearing Officer pursuant to Chapter 5 hereof shall be subject to the approval of the Hearing Officer; and~~
- ~~(c) Development in a wetland or wetland buffer associated with a proposed development that is the subject of approval by the Board pursuant to Chapter 5 hereof shall be subject to the approval of the Board.~~

**B. 719.4.1 Information Required.** The Wetland Impact Study shall include an impact avoidance and minimization analysis that demonstrates the necessity of the impact. Specific information required to be included in the Wetland Impact Study is detailed in the Administrative Procedures, but at minimum the Study shall include the following information:

1. ~~(a)~~ Onsite wetlands shall be evaluated based on size and wetland function and scored in accordance with UMAM including UMAM score sheets for each wetland within the project boundaries;
2. ~~(b)~~ A statement describing the necessity of the proposed impact;
3. ~~(c)~~ Examples of designs considered that would not require the impact or that demonstrate how the impacts have been minimized;
4. ~~(d)~~ A statement of how any proposed impacts satisfy the requirements of **Section 706.5719.5**, including:

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- a. ~~i.~~ A statement of how the impacted wetland meets the definition of Non-Viable Wetland set forth in this Code, pursuant to [Section 706.5.A](#)~~719.5.1~~;
- b. ~~ii.~~ A statement of how avoiding the impact would prevent a reasonable development of the land, including consideration of whether the wetland to be impacted is within the boundaries of a Development of Regional Impact (DRI) and a consideration of the uses permitted within the boundaries of the DRI as a whole, pursuant to [Section 706.5.B](#)~~719.5.2~~; or
- c. ~~iii.~~ A statement of how the impact is a result of an overriding public benefit. The applicant shall submit documentation to support the conclusion that the overriding public benefit would provide a direct public benefit in excess of the detriments suffered by the public resulting from the loss of the wetland functions and values, pursuant to [Section 706.5.C](#)~~719.5.3~~;

5. ~~(e)~~ Proximity of the land to adjacent urban land uses; and

6. ~~(f)~~ Degree of disturbance or invasion by exotic plant species within the wetland.

#### **706.5. ~~719.5.~~ Criteria for Approval of Wetlands Impacts.**

Development in a wetland or wetland buffer may be approved if and only if it meets the criteria set forth in this subsection, as determined by the Board, hearing officer or Director, as the case may be.

**A. ~~719.5.1~~ Impacts to Non-Viable Wetlands.** In accordance with [Policy Objective 3.3.1](#) of the Comprehensive Plan, an applicant seeking to impact a non-viable wetland, as defined in [Section 201 Chapter 2](#), which is completely contained within the project boundaries shall not be required to demonstrate avoidance and minimization. Impacts shall require authorization by the appropriate State and Federal regulatory authorities and wetland mitigation shall be provided in accordance with this [Section 719](#).

**B. ~~719.5.2~~ Impacts to Wetlands, No Practical Alternative.** In order to receive approval for development in a wetland (other than a non-viable wetland exempted pursuant to [subsection A Section 719.5.1](#), above) or wetland buffer thereto on the basis that no practical alternative exists, a Wetlands Impact Study shall demonstrate that:

1. ~~(a)~~ The applicant will be unable to make reasonable use of the property unless the proposed impact is approved; and

~~(b)~~ The applicant could not have reasonably foreseen, through the exercise of due diligence, that the development potential of the property in question is limited as a result of the requirement to avoid impacts to wetlands or wetland buffers in accordance with this [Section 719](#).

2. In making such determination, the reasonable use of the property in question shall be considered in light of:

a. ~~(a)~~ The history and surrounding area of the property;

b. ~~(b)~~ Any development orders applicable to the property, including but not limited to development orders for Developments of Regional Impact (DRI); and

c. ~~(c)~~ The development potential of the property if all wetland impacts were avoided. Reasonable use does not necessarily equate to the highest and best potential use under the Comprehensive Plan or this Code, nor does it equate to the highest density or intensity, as long as an applicant may achieve some reasonable level of development potential while avoiding wetlands impacts. Connections between uplands otherwise developable or developed for utilities and/or access, or impacts consistent with an alternative site analysis, shall be considered as a reasonable use of the property satisfying the no practical alternative test even though the need to impact the wetland may have been foreseeable.

**C. ~~719.5.3~~ Impacts to Wetlands, Overriding Public Benefit.** An applicant may receive approval for impact of a wetland or development in a wetland buffer thereto, on the basis that the applicant will provide an overriding public benefit if the Applicant in addition to providing the wetland mitigation required pursuant to this [Section 719](#), demonstrates one or more of the following:

1. ~~(a)~~ The conditions of the development approval will provide for the donation of significant lands that are otherwise unencumbered that will result in a net environmental gain (or a commensurate monetary contribution earmarked for such purpose);

2. ~~(b)~~ The impact to the wetland is included as part of an Ecosystems Management Plan and the conditions of

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the development approval will provide for significant additional preservation, enhancement or restoration of native habitats that will result in a net environmental gain (or a commensurate monetary contribution earmarked for such purpose);

3. ~~(c)~~ If not impacted, the wetland will not survive as a functioning wetland, or will deteriorate to a Non-Viable Wetland, as a result of its proximity to development; and/or
4. ~~(d)~~ Any overriding public purpose of the project to provide significant local, state or federal public infrastructure.

**706.6. ~~719.6~~ Mitigation for Altered Wetlands.**

Mitigation shall be provided for all non-exempt wetland impacts as follows:

- A. **~~719.6.1~~ UMAM Mitigation.** For development in wetlands that the State has determined are subject to UMAM, the type and quantity of mitigation shall be as required by the ERP.
- B. **~~719.6.2~~ Non UMAM Mitigation.** In those instances where wetland mitigation is not required by the State, wetland mitigation shall be provided in accordance with subparagraphs ~~(a1)~~ through ~~(d4)~~ below. The type of wetland mitigation or combination thereof as described in subparagraphs ~~(a1)~~ through ~~(d4)~~ below shall be determined by the County based on site conditions and the ability of the mitigation to replace the wetland functions that were impacted. The order of preference considered by the County shall be as follows:
  1. ~~(a)~~ *Wetland Enhancement/Restoration:* Five acres of enhanced or restored wetlands shall be provided for every one acre of wetland to be impacted.
  2. ~~(b)~~ *Upland Preservation:* In the event there is an inability to provide viable wetland enhancement/restoration on the site, five acres of native upland habitat shall be preserved for every one acre of wetland to be impacted. Preserved uplands utilized for wetland mitigation shall have an ecological or hydrological relationship to existing or created wetlands and shall be in excess of any other requirements of the Comprehensive Plan and Land Development Code.
  3. ~~(c)~~ *Payment in Lieu of Mitigation:* In lieu of the mitigation requirements in subparagraphs (a) and (b) above, the County may collect a mitigation fee or the developer may purchase credits from a County approved mitigation bank. The mitigation fee charged shall be based on the acreage of impact and shall be an amount sufficient to achieve full and complete compensation for the impact. The mitigation fee shall be established by Board resolution.
  4. ~~(d)~~ *Wetland Creation:* Two acres of herbaceous wetlands shall be created for every acre of herbaceous wetlands altered. Four acres of forested or mangrove wetlands shall be created for every acre of forested or mangrove wetlands altered.
- C. **~~719.6.3~~ Mitigation Plan Required.** Where mitigation is accepted by the County pursuant to **subsection 719.6.2B**, **above**, the applicant shall prepare a mitigation plan as follows:
  1. ~~(a)~~ *At the General Development Plan Stage:* The wetland mitigation plan shall contain general details on the options available to provide wetland mitigation in accordance with the Comprehensive Plan. Specific information required to be submitted at this stage is detailed in the Administrative Procedures.
  2. ~~(b)~~ *At the Preliminary Site Plan or Preliminary Subdivision Plat Stage:* The wetland mitigation plan shall contain information that details the applicant's preliminary intent to provide wetland mitigation in accordance with the Comprehensive Plan. The plan shall demonstrate that the proposed overall site design will adequately accommodate the proposed wetland mitigation. Specific information required to be submitted at this stage is detailed in the Administrative Procedures.
  3. ~~(c)~~ *At the Final Site Plan and Construction Plan Stage:* The wetland mitigation plan shall provide construction related details such as grading, planting, transect locations, monitoring, maintenance and seasonal high water elevations. Payments for fee in lieu of mitigation made pursuant to **subsection 706.6.B.3.719.6.2(c)** must be paid concurrent with FSP/Construction Plan approval. For projects providing mitigation in accordance with **Sections 719.6.2(a) and (d)607706.6.B.1 and 4**, a detailed cost estimate shall be prepared by a registered professional engineer or landscape architect, and shall include all projected costs of the mitigation project such as design, earthwork, planting and maintenance costs over the prescribed monitoring period. Specific

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information required to be submitted at this stage is detailed in the Administrative Procedures.

- D. ~~719.6.4.~~ Certification Required.** Upon completion of Wetland Mitigation, provided in accordance with **Section ~~719.6.2~~706.6.B**, the environmental professional responsible for the project shall provide written, sealed or notarized certification to the Engineer of Record that wetland mitigation has been constructed in accordance with the approved Final Site Plan and/or Construction Plans. The Engineer of Record shall provide a copy of the environmental professional's certification with submittal of his/her certification. In instances where wetland mitigation is being provided in accordance with **Section ~~719.6.4~~706.6.A**, Manatee County shall be copied on any notices or certifications for construction of the mitigation areas required to be submitted to the State.
- E. ~~719.6.5.~~ Success of Mitigation.** Success of mitigation provided in accordance with **Section ~~719.6.4~~706.6.A** shall be determined by the State. Mitigation provided in accordance with **Section ~~706.6.B~~719.6.2** will be considered successful when the mitigation area provides an equal or greater habitat function when compared with the original (reference) wetland. Mitigation shall be deemed successful when the following parameters are met:
- ~~(a)~~ The land area designated as re-created wetlands can maintain the design soil moisture regime (frequency and duration) as correlated to water year, rainfall event and antecedent conditions without the manipulation of available water quantities by humanity;
  - ~~(b)~~ All banks and slopes are stabilized with self-sustaining vegetation;
  - ~~(c)~~ No evidence of excessive erosion exists;
  - ~~(d)~~ Complete ground cover of vegetation has been established that is healthy and self-sustaining;
  - ~~(e)~~ Percent survival of planted forested wetland species is eighty-five (85) percent or greater and/or coverage by desirable herbaceous wetland species is eighty-five (85) percent or greater with no more than seven and one-half (7.5) percent coverage by nuisance, exotic plant species, for a period of at least two (2) years for herbaceous wetland communities, and for at least five (5) years for forested wetlands and mangrove communities. Replanting and maintenance of the mitigation area, including the periodic non-motorized removal of nuisance, exotic plant species, shall be required as necessary to ensure final cover;
  - ~~(f)~~ Water quality in the created wetland meets or exceeds State water quality standards;
  - ~~(g)~~ Habitat value in the created wetland approximates conditions in the reference wetland or conditions specified in the Wetland Impact Study, if different; and
  - ~~(h)~~ Hydroperiod in the created wetland is sufficient to support wetland vegetation and functions.
- F. ~~719.6.6.~~ Mitigation Monitoring.** To evaluate the progress of wetland mitigation the developer shall submit Wetland Mitigation Monitoring Reports to the County. For those projects providing wetland mitigation in accordance with **~~719.6.4~~Section 706.6.A**, the developer shall copy the County on all Wetland Mitigation Monitoring Reports required by the State. For those projects providing wetland mitigation in accordance with **Section ~~706.6.B~~719.6.2**, the developer shall submit Wetland Mitigation Monitoring Reports as follows:
- ~~(a)~~ Monitoring shall commence upon wetland mitigation certification, required by **Section ~~706.6.D~~719.6.4**, being accepted by the County. Monitoring shall continue for a period of at least two (2) years for herbaceous wetland communities, and for at least five (5) years for forested wetlands and mangrove wetland communities or until success criteria have been met.
  - ~~(b)~~ Wetland mitigation monitoring shall be conducted by the developer on a semi-annual basis for the first two (2) years after being deemed complete, and annually thereafter. Reports shall be submitted annually within thirty (30) days of the completion date.
  - ~~(c)~~ Minimum information required for Wetland Mitigation Monitoring Reports is detailed in the Administrative Procedures.
- G. ~~719.6.7.~~ Mitigation Security.** For mitigation accepted by the County pursuant to **subsection ~~715.6.2(a)~~ and ~~(d)~~706.6.B.1 and 4**, as a condition for approving wetland(s) alteration and accepting a Wetlands Mitigation Plan, the Board of County Commissioners shall require the posting of a security, bond, escrow or other means of guarantee to:
- ~~(a)~~ Ensure that the applicant has carried out the approved mitigation project in accordance with the Wetlands Mitigation Plan, and that the project has met the success criteria specified in **Section ~~719.6.5~~706.6.E**;

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2. ~~(b)~~ Ensure that the applicant will correct any deleterious effects on wetlands or adjacent areas that may result from his/her noncompliance with the conditions of the approved Wetlands Mitigation Plan;
3. ~~(c)~~ Enable the County to take steps to restore the site in the event that the developer/applicant/landowner defaults on the conditions of the Wetlands Mitigation Plan; and
4. ~~(d)~~ Such mitigation security shall comply with Section ~~337.10~~<sup>940.10</sup> and shall comply with any additional requirements imposed pursuant to the Administrative Procedures. The amount of Security shall be equal to thirty (30) percent of the estimated or actual costs and expenses of wetland mitigation construction, planting, maintenance and monitoring the County may incur in making good on non-compliance or non-performance of any requirements of the Wetland Mitigation Plan. The mitigation security shall be extended to cover the required monitoring period, after wetland mitigation has been deemed complete by the County.

**706.7. ~~749.7.~~ Wetland Buffers.**

Generally, a wetland buffer of at least fifty (50) feet shall be observed from the most landward extent of any post-development jurisdictional wetland contiguous with the Terra Ceia Aquatic Preserve, the Sarasota Bay Outstanding Florida Water, or the Little Manatee Outstanding Florida Water, and the inflowing watercourses within the Watershed Protection Overlay Districts. A wetland buffer of at least thirty (30) feet shall be observed from the most landward extent of all post-development wetlands that are not contiguous with the above-named water bodies or within the Watershed Protection Overlay Districts. The County may require increased wetland buffers adjacent to Outstanding Florida Waters, riverine systems or larger isolated wetlands, to enhance watershed protection, to maintain aesthetic view sheds, to preserve native upland habitat, to provide wildlife corridors, or to minimize adverse impacts to the ecological value of uplands for aquatic or wetland dependent listed animal species.

**A. ~~749.7.2~~ Prohibited Activities.** Prohibited activities in wetland buffers shall at a minimum include:

1. ~~(a)~~ Development, except as set forth in [Section 719.7.3706.7.B](#), below; and
2. ~~(b)~~ The removal or other disturbance of any earth, trees, shrubbery and other plants except as set forth in [Section 719.7.3706.7.B](#), below.

**B. ~~749.7.3~~ Permitted Activities.** Allowable activities in wetland buffers shall include:

1. ~~(a)~~ Limited clearing of vegetation in a wetland buffer may be permitted as part of a required stormwater management system outfall, where allowed under other Sections of this Code;
2. ~~(b)~~ Limited clearing of vegetation in a wetland buffer may be permitted in order to allow public or riparian access to the water, provided that:
  - a. ~~1.~~ The path cuts through the wetland buffer to the water, so as to provide an access way generally perpendicular to the shoreline; and
  - b. ~~2.~~ The access way shall not exceed ten (1-0) feet in width;
3. ~~(c)~~ The construction of elevated boardwalks, catwalks or docks in wetland buffers, provided that such structures are no more than four ( 4) feet in width (unless greater width is approved by the [Department Director](#)); and are elevated at least three (3) feet above land or water to prevent continuous shading of vegetation. Additionally, the construction of wildlife management shelters, footbridges, observation decks and similar water-related structures in wetland buffers, provided that all such structures must be elevated on pilings to permit the unobstructed flow of water and movement of wildlife, prevent continual shading of the area beneath the structure, and preserve the natural contour of the land. At grade trails shall be allowed in wetland buffers, provided that no impervious surfaces are constructed;
4. ~~(d)~~ The clearing of boat launch areas through wetland buffers, provided that such areas shall be no more than ten (1-0) feet in width, unless greater width is approved by the [Department Director](#);
5. ~~(e)~~ The removal of nuisance or exotic plant species, such as Brazilian pepper, Australian pine, or melaleuca, or noxious endemic vegetation such as poison ivy or cattails from wetland buffer;
6. ~~(f)~~ The conduct of mosquito or aquatic weed control activities in wetland buffers, provided such activities are conducted pursuant to a program approved by the Department of Agriculture and Consumer Services in the case of insect control, and the Department of Environmental Protection in the case of aquatic weed or algae

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control;

7. ~~(g)~~ The placement of protective barriers to limit access to the wetland or its wetland buffers, if such structures are approved by the [Department](#) Director;

8. ~~(h)~~ Activities authorized by the [Department](#) Director, as provided ~~in this Chapter~~ [Section 719.5.4](#);

9. ~~(i)~~ Activities associated with wetland impacts approved pursuant to [subsection 719.5706.5](#); and

10. ~~(j)~~ Activities authorized by the [Department](#) Director, that are part of a wetland buffer maintenance plan designed to allow plantings within the wetland buffer and to provide for maintenance of the wetland buffer in a functionally viable manner. The wetland buffer management plan may be approved by the [Department](#) Director in conjunction with a Preliminary Development Plan, Preliminary Plat or Site Plan.

**C. ~~719.7.4~~ Variable Width Buffers.** Under limited circumstances, where site specific conditions and physical constraints do not allow the application of a uniform-width wetland buffer, a variable width wetland buffer may be approved. Site specific conditions and physical constraints which may be considered include situations where:

1. ~~(a)~~ Application of a uniform-width buffer would restrict vehicular access to an upland portion of the development site;
2. ~~(b)~~ Locations of driveways, rights-of-way or private streets are mandated by FDOT or County requirements, and re-alignments cannot be negotiated; or
3. ~~(c)~~ Minor encroachments into previously disturbed portions of a wetland buffer for short linear distances cannot be avoided.

In no event shall the proposed variable width buffer be narrower than DEP or SWFWMD standards for Environmental Resource Permitting.

The configuration of the variable width buffer shall be determined by detailed onsite investigation, and shall at a minimum equal the area that would otherwise have been encompassed by a uniform-width buffer configured parallel to the wetland. Wetland buffer encroachments authorized under this Section shall be compensated for on the same wetland or wetland system, and such compensation shall be of equal or better quality.

**D. ~~719.7.5~~ Wetland Buffer Restoration.** As additional protection for wetlands and their wetland buffers, and to increase the upland habitat function of the wetland buffer, nuisance exotic vegetation shall be removed and native plantings shall be installed.

1. ~~719.7.5.1~~ *Removal of Nuisance Exotic Vegetation.* A strip equivalent in width to the required wetland buffer shall be cleared of nuisance exotic species prior to final plat approval, or prior to Certificate of Occupancy issuance for projects not requiring final plat approval. Continued removal of nuisance, exotic plant species that become reestablished within wetland buffers shall be addressed in the Exotic Plant Species Removal Plan required pursuant to [Section 745.4\(E\)701.4.E](#) of this Code.
2. ~~719.7.5.2~~ *Enhancement of Wetland Buffers.* As additional protection for wetlands and replacement of upland habitat loss from historical land uses, wetland buffers shall be enhanced with desirable native plantings.
3. ~~719.7.5.2.1~~ *Wetland Buffer Enhancement Plan.* A Wetland Buffer Enhancement Plan shall be submitted with the Final Site Plan or Construction Drawings and shall be approved by the [Department](#) Director. Specific information required to be included in the Wetland Buffer Enhancement Plan is detailed in the Administrative Procedures. Wetland buffer enhancement shall be completed prior to final plat approval, or prior to Certificate of Occupancy issuance for projects not requiring final plat approval. Required plant materials which are removed or die shall be replaced within thirty (30) days.
4. ~~719.7.5.3~~ *Certification Required.* Prior to final plat approval or prior to Certificate of Occupancy issuance for projects not requiring final plat approval, the environmental professional responsible for the project shall provide written, sealed or notarized certification to the engineer of record that wetland buffer enhancement has been completed as approved in the Final Site Plan or Construction Plans. The engineer of record shall provide a copy of the environmental professional's certification with submittal of his/her certification.

**E. ~~719.7.6~~ Wetland Buffer and Upland Preservation/Conservation Area Identification and Protection.** All wetland buffer and/or upland preservation required as compensation and conservation areas shall be clearly staked or otherwise physically identified in the field prior to and during construction. Erosion and sediment control

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devices or other protective devices shall be installed landward of the edge of the wetland buffer, upland preservation and conservation areas prior to commencement of construction, and shall be inspected and maintained on a regular basis until construction has been completed.

**706.8. ~~719.8.~~ Easements.**

Easements for developments that contain wetlands and wetland buffers shall be provided to the County in accordance with this subsection.

**A. ~~719.8.1.~~ Mitigation Areas.** Easements over newly created, enhanced or restored wetlands and associated wetland buffers and upland preservation areas provided as compensation in accordance with this Section ~~719~~ shall be granted to the County as follows:

1. ~~(a)~~ During construction of mitigation a temporary construction easement shall be granted to the County to allow the County access to wetland mitigation areas to complete the required mitigation should the developer default. The temporary construction easement shall be dedicated concurrent with Final Site Plan or Construction Plan approval; and
2. ~~(b)~~ Upon completion and acceptance of mitigation, a conservation easement shall be granted to the County pursuant to this Section ~~719~~ over any newly created, enhanced or restored wetland(-s-), upland preservation areas and associated wetland buffers.

**B. ~~719.8.2.~~ Post Construction Conservation Easements.** A Conservation Easement shall be granted to the County over all wetlands and associated wetland buffers, within the project limits (separately from and in addition to any conservation easement granted to a State or Federal agency in connection with development). Said easement shall be dedicated to and enforceable by Manatee County for the benefit of the County and the property owners of the project in which the wetland is located. The easement shall accomplish the following:

1. ~~(a)~~ Preserve and protect the conservation values of the property;
2. ~~(b)~~ Allow County access to the property at reasonable times in order to monitor compliance with, and otherwise enforce, the terms of the easement; provided that such entry shall be upon prior reasonable notice to the property owner and will not interfere with the owner's use and quiet enjoyment of the property; and
3. ~~(c)~~ Prevent any activity or use of the property that is inconsistent with the purpose of the easement and to require the restoration of such areas or features of the property that may be damaged by any inconsistent activity or use.

The Conservation Easement shall be subject to the approval of the Department Director, and coordinated with the County Attorney and Property Management Department. Conservation Easements shall be dedicated concurrent with Final Plat approval or Certificate of Occupancy issuance for projects not requiring Final Plat.

**C. ~~719.8.3.~~ Witness Monuments.** Witness monuments shall be set where the boundaries of any conservation easement under this Section ~~719~~ intersect with lot lines or property boundaries.

**D. ~~719.8.4.~~ Signage.** The boundaries of all Conservation Easements required by this Code shall be physically identified with signage as approved by the Department Director. The location and number of signs shall be approved with the final site plan or construction drawing approval, and shall be based upon the configuration of the Conservation Easement. All required signage shall be installed prior to final plat approval or prior to Certificate of Occupancy issuance for projects not requiring final plat approval.

**E. ~~719.8.5.~~ Certification Required.** Upon completion of witness monument and sign placement, and prior to final plat approval or prior to Certificate of Occupancy issuance for projects not requiring final plat approval, the Engineer of Record or Surveyor shall provide written, sealed or notarized certification to the County that witness monuments and signage have been installed as approved in the Final Site Plan or Construction Plans.

**706.9. ~~719.9.~~ Development Transfer Allowed for Wetlands and their Wetland Buffers.**

**A. Transfer Allowed.** The acreage within a wetland and wetland buffer may be used to determine the total allowable units or square footage of development that will be allowed on a site containing all or part of a zone, in conformity with the requirements of the Comprehensive Plan. The allowable development potential may be transferred to upland portions of the site outside the Wetlands and Wetland Buffer. Examples of Wetland and Wetland Buffer

**Commented [LEA16]:** Repeats Section 907.10.1.4.3, which was moved to the Development Review manual

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Density/Intensity Credit are provided in the Administrative Procedures.

**B. ~~719.9.1~~ Limitation on ~~Density/Intensity~~ Credit.** The alteration or relocation of any jurisdictional wetland shall be minimized by limiting the density or intensity credit which may be transferred from any acreage of altered or relocated jurisdictional wetlands to 50% of the maximum density or intensity associated with the Comprehensive Plan Land Use Classification on any such wetland. Any such reduction in density or intensity credit shall be in addition to any reduction caused by wetland acreage being in excess of 20% gross project acreage.

**~~706.10.~~ ~~719.10.~~ Enforcement.**

**~~1206.5. Wetlands Protection.~~** Any person who dredges, fills, drains, or otherwise alters any wetland without appropriate permission from Manatee County, or in violation of the conditions of such approval shall be subject to the following penalties and remedies when found in violation, in addition to any fines that may be levied through the Land Development Code or other adopted regulations.

**A. ~~4.~~** They shall be required to restore the wetland(s) to its/their original (prealteration) condition, as determined by reference to historic photographs, notes from site visits, or other reference documentation, or to such other condition as prescribed by Manatee County.

**B. ~~2.~~** Where the owner has not restored the property to its original condition, or to such other condition as prescribed by Manatee County, no permits for new construction or land clearing in preparation for construction shall be issued on the property where such violation occurred within five (5) years of the violation. This time frame may be reduced by the Board after considering whether the violation was an intentional violation of this Code, the extent to which restoration has occurred, and who caused the violation. The time frame restrictions shall be recorded in the County Clerk's property records (under property owner's name and legal description) to run with the land. Notice of this recording shall be sent certified mail return receipt request to the property owner.

The provisions of this Section ~~719~~ shall also be enforced pursuant to **Chapter 12 Section 106**, Enforcement, of this Code. Bonding requirements set forth in this Section ~~719~~ shall not preclude the County from pursuing other means of enforcement.

**Section 707. to 709. Reserved**

**Part III. Historic, Cultural and Archaeological Resources.**

**Section 710. ~~Section 522.~~ Historic Landmark Designation.**

**710.1. ~~522.1.~~ Authority.**

The Historic Preservation Board shall have the authority to recommend to the Board that sites, structures, objects or districts be granted historic landmark designation, and be listed in the National Register of Historic Places. The Board shall have final authority for such designation and listing. The members of the Historic Preservation Board are encouraged to participate in survey and planning activities of the County in the manner and to the extent permitted under applicable law.

**710.2. ~~522.2.~~ Purpose.**

The purpose of historic landmark designation and listing in the National Register of Historic Places is to maintain a list of sites, structures, objects and districts that are significant to the history of the County. Landmark designation also provides recognition to property owners for their efforts in preserving the heritage of the County.

**Commented [LDI17]:** The references to the County having authority to list in the National Register need to be fixed. Also, it is not clear which resources get reviewed (if just those designated as local landmarks, those shown as "significant" on the FMSF, National Register resources, etc.?) The standards for listing should be separated into two sections, one for individual resources and the other for districts. These issues should be fixed ASAP.

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**710.3. ~~522.3.~~ Criteria.**

A site, structure, object or district may be considered for historic landmark designation and listing in the National Register of Historic Places if it is significantly associated with the history, architecture, archaeology, engineering or cultural heritage of the County. A site, structure, object, or district must also have integrity in at least two (2) of the following attributes: location, design, setting, materials, workmanship, feeling and association. In addition to attributes of integrity, a site, structure, object or district must meet one (1) or more of the following criteria to be considered for historic landmark designation and listing in the National Register of Historic Places:

- A. ~~1.~~ The site, structure, object or district is listed in the National Register of Historic Places.
- B. ~~2.~~ The site, structure, object or district is associated with events that have made a significant contribution to broad patterns of local, regional, state or national history.
- C. ~~3.~~ The site, structure, object or district is associated with the lives of persons significant in local, regional, state, or national history.
- D. ~~4.~~ The site, structure, object or district embodies the distinctive architectural characteristics of a type, period or method of construction, or represents the work of a master builder, architect or designer, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- E. ~~5.~~ The site, structure, object or district has yielded or is likely to yield important archeological information related to history or prehistory.
- F. ~~6.~~ The site, structure, object or building has been removed from its original location but is significant primarily for its architectural value or is the only surviving site, structure, object or building significantly associated with a historic person or event.
- G. ~~7.~~ The site is a cemetery which derives its primary significance from age, distinctive design features, or association with historic events or cultural patterns.

**710.4. ~~522.4.~~ Procedures.**

Historic landmark designation and listing in the National Register of Historic Places shall comply with the requirements and procedures set forth in this subsection.

- A. ~~522.4.1.~~ **Applicant.**— An application for historic landmark designation and listing in the National Register of Historic Places shall be filed by the property owner.
- B. ~~522.4.2.~~ **Application.**— The applicant shall complete an application form ~~provided by the Building and Development Services Department~~ and submit the ~~application~~ form and documentation to the ~~Building and Development Services Department~~ Director. The applicant shall pay a fee in an amount established by the Board at the time the application for historic landmark designation and listing in the National Register of Historic Places is submitted. The ~~Building and Development Services Department~~ Director shall determine when an application is complete and may request additional information if the application is determined to be incomplete.
  - 1. ~~522.4.2.1.~~ Each application shall contain the following information:
    - a. ~~1.~~ A written description of the architectural, historical or archaeological significance of the proposed site, structure, object or district referring to the criteria set forth in subsection ~~522.3~~ 710.3, above. The written report shall state the qualifications of the site, structure, object or district for historic landmark designation and listing in the National Register of Historic Places;
    - b. ~~2.~~ The date of construction of the site, structure, object or district;
    - c. ~~3.~~ The notarized signatures of the property owners requesting the historic landmark designation ~~and or~~ listing in the National Register of Historic Places;
    - d. ~~4.~~ Photographs of the site, structure, object or district; and
    - e. ~~5.~~ The legal description and a map of the property encompassing the site, structure, object or district.
  - 2. ~~522.4.2.2.~~ An application for a historic district shall include the following additional information:

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- a. ~~1.~~ Evidence of approval of the historic district designation from the owners of two-thirds of the properties within the proposed district boundaries or from the owner or owners of two-thirds of the land area within the proposed district boundaries;
- b. ~~2.~~ A written description of the boundaries of the proposed historic district; and
- c. ~~3.~~ A list of contributing and non-contributing sites, structures and objects within the proposed district boundaries.

**C. ~~522.4.3. Notices.~~** All notices relating to applications for historic landmark designation and listing in the National Register of Historic Places shall be published, mailed and posted not less than thirty (30) calendar days and not more than seventy-five (75) calendar days prior to any public hearing by the Historic Preservation Board or the Board. Notice of public hearing shall be published in compliance with the requirements of ~~sub~~Section ~~502.7.3~~ 312.7 and paragraph ~~502.7.2.~~ of this Code. Notice shall be mailed by the applicant to all owners of the proposed site, structure or object or all property owners within the proposed district boundaries, any persons representing the owners of the proposed site, structure or object or any persons representing any property owners within the proposed district boundaries, and all property owners located within one thousand (1,000) feet of the proposed site, structure, object or district in compliance with the requirements of ~~sub~~Section ~~502.7.3~~ 312.7.B of this Code. Notice shall also be posted by the applicant on the property where the proposed site, structure or object is located and on the right-of-way of all roads and streets which enter the boundaries of the proposed district in compliance with the requirements of ~~Section 312.7.D paragraph 502.7.4.~~ of this Code. The applicant shall pay all costs for publishing, mailing and posting the notices required by this paragraph.

**D. ~~522.4.4. Recommendation.~~** The Historic Preservation Board shall hold a public hearing on an application for historic landmark designation and listing in the National Register of Historic Places within ninety (90) days after the ~~Building and Development Services~~ Department ~~Director~~ determines that such application is complete, provided that notices have been published, mailed and posted as required by ~~Section 710.4.C paragraph 522.4.3~~ above. The ~~Building and Development Services~~ Department ~~Director~~ shall prepare a written analysis and report for the public hearing. The public hearing by the Historic Preservation Board shall be conducted in accordance with ~~section 303.3 subsection 306.3~~ of this Code. In addition, the requirements of ~~Section 342.4.C paragraph 504.7.~~ of this Code shall also apply to any public hearing conducted by the Historic Preservation Board. The applicant, local officials, property owners and the public shall have an opportunity to present testimony and evidence supporting or objecting to the proposed historic landmark designation and listing in the National Register of Historic Places. Any property owner who objects to the proposed historic landmark designation and listing in the National Register of Historic Places must submit a written statement containing his or her notarized signature. At the conclusion of the public hearing, the Historic Preservation Board shall vote whether to recommend the proposed site, structure, object or district for historic landmark designation and listing in the National Register of Historic Places.

**710.5. ~~522.5. Decision.~~**

Following a recommendation by the Historic Preservation Board on an application for historic landmark designation and listing in the National Register of Historic Places, the Board shall hold a public hearing on the application. The requirements of ~~section 342.4.C paragraph 504.7.2.~~ of this Code shall apply to any public hearing conducted by the Board. At the conclusion of the public hearing, the Board may approve or deny the recommendation of the Historic Preservation Board or may continue the public hearing and defer a decision if adequate information is not available. In the event of continuation and deferral, the Board shall reopen the public hearing and consider the recommendation of the Historic Preservation Board at the earliest opportunity after adequate information is made available. The ~~Building and Development Services~~ Department ~~Director~~ shall notify each applicant, property owner, person representing any property owner and person who received notice as required by ~~paragraph 522.4.3~~ ~~Section 710.4.C~~ above of the Board's decision relating to the property in writing no later than thirty (30) days after the Board meeting.

**710.6. ~~522.6. Permits.~~**

The ~~Building and Development Services~~ Department ~~Director~~ may issue a development order or permit for any property without a Certificate of Appropriateness if the Board denies a recommendation by the Historic Preservation Board on an application or if an applicant withdraws an application for historic landmark designation and listing in the National Register of Historic Places before a decision is made by the Board. Following approval by the Board of a recommendation by the Historic Preservation Board on an application for historic landmark designation and listing in

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the National Register of Historic Places, the ~~Building and Development Services~~ Department Director shall not issue a development order or permit for any exterior alteration, new construction, demolition, or relocation on the property or within the district which is the subject of the application until a Certificate of Appropriateness is approved in compliance with Section ~~544-347~~ of this Code.

710.7. ~~522.7.~~ Implementation.

If the Board approves the recommendation of the Historic Preservation Board relating to the site, structure, object or district, the ~~Building and Development Services~~ Department Director shall take appropriate action to implement the historic landmark designation and listing in the National Register of Historic Places.

- A. ~~522.7.1.~~ The ~~Building and Development Services~~ Department Director shall be authorized to issue a permit for a sign or plaque identifying any site, structure, object or district approved with a historic landmark designation, provided that the owner of the site, structure or object or any property owner within the district submits an application and pays a fee established by the Board for a sign permit and provided that the sign or plaque is constructed or installed in compliance with this Code and the Florida Building Code.
- B. ~~522.7.2.~~ The ~~Building and Development Services~~ Department Director shall be authorized to process applications and prepare staff reports for land development incentives to preserve any site, structure, object or district approved with a historic landmark designation, including, but not limited to, variances, transfer of development rights, and ~~conditional use~~ Special pPermits, provided that the owner of the site, structure or object or any property owner within the district submits an application, pays a fee established by the Board, and complies with all requirements and procedures for such actions set forth in this Code.
- C. ~~522.7.3.~~ The ~~Building and Development Services~~ Department Director shall not issue a permit for demolition, alteration, relocation or construction activities on any site, structure or object or within any district approved with a historic landmark designation except in compliance with a Certificate of Appropriateness issued pursuant to Section ~~544-347~~ of this Code.
- D. ~~522.7.4.~~ The ~~Building and Development Services~~ Department Director shall list any site, structure, object or district approved with a historic landmark designation in the National Register of Historic Places.
- E. ~~522.7.5.~~ The ~~Building and Development Services~~ Department Director shall update the complete listing of the National Register of Historic Places for the Manatee County Comprehensive Plan, as amended.

(Ord. No. 13-26, § 4(Exh. B), 10-3-13)