

ORDINANCE 00-27 (fka 99-65)

DRI #19 UNIVERSITY COMMONS

GRANTING AMENDMENTS TO ORDINANCE 99-38

FILED FOR RECORD
R.B. SHORE
CLERK OF CIRCUIT COURT
MANATEE COUNTY, FLORIDA
May 12 8 04 AM '00

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CLERK OF CIRCUIT COURT
MANATEE COUNTY, FLORIDA

00 AM '00

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, RENDERING AN AMENDED DEVELOPMENT ORDER PURSUANT TO SECTION 380.06, FLORIDA STATUTES, FOR UNIVERSITY COMMONS, A DEVELOPMENT OF REGIONAL IMPACT, DRI #19, ALSO KNOWN AS TBRPC DRI #190; PROVIDING FOR DEVELOPMENT RIGHTS, CONDITIONS, AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 28, 1988, University Commons, L.P. filed an Application for Development Approval* of a Development of Regional Impact ("DRI") with the Manatee County ("County") Board of County Commissioners pursuant to the provisions of Section 380.06, Florida Statutes, and additional information submittals by the Developer* dated May 23, 1989; August 21, 1989; December 29, 1989; July 19, 1990; and December 19, 1990; and

WHEREAS, the Application for Development Approval* proposed construction of a MULTI-USE PROJECT on approximately two hundred and eighty-six acres, located in southern Manatee County, hereinafter referred to as "University Commons DRI" or the "Development*"; and

WHEREAS, the described project lies within the unincorporated area of Manatee County; and

WHEREAS, on June 3, 1992, the Board of County Commissioners of Manatee County adopted Ordinance 92-31, (the "Development Order"), approving, with conditions, the University Commons Development of Regional Impact; and

WHEREAS, the Department of Community Affairs appealed Ordinance 92-31 within the statutory time frame allowed; and

WHEREAS, the University Commons, L.P. entered into a settlement agreement with the Department of Community Affairs (DCA) to resolve their concerns; and

WHEREAS, on January 4, 1994, the Board of County Commissioners of Manatee County adopted an amended Development Order (Ordinance 93-54) for the University Commons DRI, adopting language to settle administrative action between the Department of Community Affairs, and University Commons; and

WHEREAS, on August 3, 1999 the Board of County Commissioners of Manatee County adopted an amended Development Order (Ordinance 99-38) for the University Commons DRI, to extend the buildout dates for this DRI; and

WHEREAS, on August 24, 1999, Centex Homes, Inc., hereinafter referred to as the "Developer*" filed a Notice of Proposed Change (NOPC) to the Development Order for University Commons; and

WHEREAS, the NOPC proposed simultaneous increases and decreases in land use totals,

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TALLAHASSEE, FLORIDA

00-27: University Commons (DRI 19) - Amended Development Order

revisions and changes to conditions of approval to reflect the new mix of land uses, amend Map H to add an access point to Tuttle Avenue, replace the required transportation improvements entirely, modify a number of definitions and conditions of approval, amend the Development Order to be internally consistent with all changes proposed by the applicant, and amend Map H to reflect all changes; and

WHEREAS, the above described changes, cumulatively with all previous changes, do not constitute a Substantial Deviation to the Development Order for University Commons, pursuant to Subsection 380.06(19), Florida Statutes; and

WHEREAS, the Board of County Commissioners as the governing body of the local government having jurisdiction pursuant to Section 380.06, Florida Statutes, has the statutory authority to consider and approve the NOPC for an amendment to an approved Development of Regional Impact; and

WHEREAS, the public notice requirements of Manatee County and Chapter 380, Florida Statutes, have been satisfied; and

WHEREAS, the Planning Commission of Manatee County has reviewed the NOPC and has filed a recommendation on this NOPC with the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners has received and considered the comments of the Tampa Bay Regional Planning Council ("TBRPC") and DCA; and

WHEREAS, the Board of County Commissioners of Manatee County on April 25, 2000 held a duly a noticed public hearing on the NOPC to amend and replace Ordinance 99-38 and has solicited, received, and considered all testimony, reports, comments, evidence, and recommendations from interested citizens, County agencies, the applicant, and the review and report of the Manatee County Planning Department.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA IN A REGULAR MEETING ASSEMBLED THIS 25h DAY OF APRIL, 2000, AS FOLLOWS:

SECTION 1. FINDINGS OF FACT

The Board of County Commissioners, after considering the testimony, evidence, documentation, application for amendment of the Development Order, the recommendation and findings of the Planning Commission, and all other matters presented to the Board at the public hearing hereby makes the following findings of fact:

- A. All "WHEREAS" clauses preceding Section 1 of this Ordinance are adopted as findings of fact.
- B. The Developer* has received County approvals for and has commenced development in the development, consistent with Ordinance 92-31, as amended by Ordinance 93-54 and Ordinance 99-38.
- C. An application has been submitted to Manatee County and is being processed concurrently

with this NOPC to approve a revised Zoning Ordinance to reflect the changes proposed in this NOPC.

- D. The Board of County Commissioners has received and considered the report of the Planning Commission concerning the Development* as it relates to the real property described in Section 8 of this Development Order and in the Application for the NOPC, in addition to the application for amendment of the Zoning Ordinance. The report was rendered on April 13, 2000, following public hearing.
- E. The Board of County Commissioners held public hearings on February 22, 2000, March 28, 2000, and April 25, 2000 regarding the NOPC and proposed Zoning Ordinance Amendment, in accordance with the requirements of Manatee County Ordinance No. 90-01, as amended (The Manatee County Land Development Code), and Ordinance No. 89-01, as amended (The 2020 Manatee County Comprehensive Plan) and has further considered the testimony, comments, and information received at the Public Hearings.
- F. The proposed changes to the DRI are found to be consistent with the requirements of The 2020 Manatee County Comprehensive Plan, provided the Development* proceeds in accordance with the Development Conditions specified in Section 5 and the Developer* Commitments specified in Section 6 of this Development Order.
- G. The "Developer* submitted to the County a NOPC which is incorporated herein by reference.
- H. The real property which is the subject of this Development Order is legally described in Section 8 of this Development Order.
- I. The proposed Development* is not located in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.
- J. The authorized agent for the Developer* is Mr. Caleb Grimes of Grimes, Goebel, Grimes, Hawkins, and Gladfelter, and his address is 1023 Manatee Avenue West, Bradenton, FL 34205.
- K. The owners of the property, and the Developer*, are Phy Matrix Corporation, Lifecare Health Resources, Inc, 950 Cambridge Corporation, and Centex Homes, Inc.
- L. A comprehensive review of the impact generated by the Development* has been conducted by the appropriate departments of the County, the Planning Commission, the Board of County Commissioners, TBRPC, and the Department of Community Affairs (DCA).

SECTION 2. CONCLUSIONS OF LAW

- A. Based upon the previous findings of fact and the following Conditions of Development Approval*, the Board of County Commissioners of Manatee County concluded that:
 - 1. The Development* is consistent with the local land development regulations and is consistent with the State Comprehensive Plan, the TBRPC's Future of the Region,

(A Strategic Regional Policy Plan), and The 2020 Manatee County Comprehensive Plan.

- B. That these proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in these proceedings, the Developer* is authorized to conduct development as described herein, subject to the conditions, restrictions and limitations set forth below.
- C. That the review by the County, the Planning Commission, TBRPC, and other participating agencies and interested citizens reveals that the impacts of the Development* are adequately addressed pursuant to the requirements of Chapter 380, Florida Statutes, within the terms and conditions of this Development Order, the ADA*, and the NOPC. To the extent that the ADA* is inconsistent with the terms and conditions of this Development Order, the terms and conditions of this Development Order shall prevail.
- D. This Ordinance replaces Ordinance 99-38 in its entirety and adequately addresses the impacts of the development, pursuant to the requirements of Chapter 380, Florida Statutes.
- E. Pursuant to Subsection 380.06(19)(c), Florida Statutes, the changes proposed pursuant to the NOPC submitted on August 24, 1999 and approved pursuant to Ordinance 00-27, do not constitute a Substantial Deviation requiring further Development of Regional Impact review.

SECTION 3. DEVELOPMENT COMPONENTS

- A. The Development* consists of the area and land uses by phase described in Columns A through F of Table 1. Phase I of the Development* is specifically approved subject to the conditions found within the Development Order. Phase II is conceptually approved subject to a determination by Manatee County that any significantly adverse air quality impacts caused by Phase II or any subphase thereof will be mitigated prior to Vertical Development* of Phase II, or any subphase thereof, and that transportation, wastewater, water, mass transit, parks and recreation facilities, drainage, and solid waste capacity needed to serve Phase II is or will be adequate to meet such impacts of Phase II when such impacts occur.

The determination as to the adequacy of wastewater, water, mass transit, parks and recreation facilities, drainage, and solid waste capacity for Phase II shall be made in accordance with the Manatee County concurrency requirements in effect at the time of application for a Certificate of Level of Service. The determination as to the adequacy of transportation capacity for Phase II shall be made in accordance with the current Manatee County or Sarasota County concurrency requirements which are in effect at the time of application for a Certificate of Level of Service, as well as the requirements of Chapter 380, Florida Statutes, pertaining to the analysis of transportation impacts. Sarasota County shall have the right to review such Phase II transportation analysis as it pertains to the transportation impact on Sarasota County. In the event that transportation, wastewater, water, mass transit, parks and recreation facilities, drainage, and solid waste capacity is only available for a portion of Phase II, development of such portion may proceed, with development of the balance of Phase II being subject to future determinations as to such capacity availability.

TABLE 1
DEVELOPMENT* LAND AREA AND USES

Column A Land Use	Column B F Phase I 1992-(2003) ³	Column C Phase II 1998-(2008) ³	Column D Total Sq. Ft.	Column E Total Units	Column Acres
IL (Residential) ^{1,5} (Consisting of 68 Independent Living Units, 150 single-family units, 150 villa units, and 100 duplexes)	468 lus	—	—	468 lus	203.7
PC (Residential)	110 ⁴ lus	—	---	110 lus	2.3
SN (Service)	120 beds	—	---	120 beds	9.2
HOTEL (Hotel)	—	130 rooms	—	130 rooms	3.0
COMMERCIAL ² (Retail)	250,000 sq. ft.	115,000 sq. ft. Gross leaseable area (140,000 sq. ft. with canopies)	365,000 sq.ft. Gross leaseable area (390,000 sq. ft. with canopies)	---	33.8
OFFICE (Office)	80,000 sq. ft.	120,000	200,000 sq.ft.	---	14.4

¹ Titles in parentheses refer to land use designations as categorized by the State in Section 380.0651, Florida Statutes.

² Commercial acreage and square footage figures include the existing 250,000 square foot shopping center, which is located on 30± acres in the southeast corner of the Project*. The Development shall comply with the Manatee County Land Development Code pertaining to minimum parking space requirements.

³ Buildout shall be September 14 of the date listed in Columns B & C of Table 1 above.

⁴ 110 beds will be within a maximum of 100 bedrooms.

⁵ The approved number of duplex or villa units may be increased by no more than 10 dwelling units, provided that there is a corresponding decrease of 10 duplex, single-family, or villa dwelling units. The number of single-family detached lots may be increased by no more than 5 lots, provided that there is a corresponding decrease of 5 duplex or villa dwelling units, and provided that the Developer* obtain an amended CLOS to verify that there are adequate levels of service to accommodate

this change. Any increase in density for the single family detached, duplex, or villa units shall not occur within 500 feet of the external boundaries of this DRI of within 200 feet or any part of the DRI which has been constructed or sold to an owner or owners different from the applicant requesting the change.

1. The Development* by land use described in the Land Use Schedule set forth in Table 1 deviates from the Development* by land use described in the ADA* (prior to the Final Report of the TBRPC), however, as the analysis in Exhibit "A" demonstrates, the Development* by land use described in the land use schedule of Table 1 is equivalent to, or of less impact than, the Development* by land use described and addressed in the ADA*.
2. Table 1 incorporates a prior Section 380.06(19)(e)2, Florida Statutes, 3 year extension and a twenty month and fifteen day tolling period resulting from an appeal of the original Development Order by DCA to Phases I and II of the Development*. All other changes in phasing will be viewed cumulatively with this revision in phasing schedule.

SECTION 4. DEFINITIONS:

Note: An asterisk (*) following a word or phrase in the text of this Development Order denotes that the word or phrase is defined in Section 4 of the Development Order.

- A. "Application for Development Approval" (or "ADA") shall mean University Commons' Development of Regional Impact Application for Development Approval (December 28, 1988), and additional information submittals by the Developer* dated May 23, 1989, August 21, 1989, December 29, 1989, July 19, 1990, and December 19, 1990, and technical memoranda and supplemental information submitted on October 25, 1991, January 10, 1992, March 13, 1992, March 18, 1992, and April 27, 1992 and revised Map H dated April 04, 2000, the NOPC submitted on November 6, 1998, and the NOPC submitted on August 24, 1999.
- B. "Best Management Practices" (BMP*) shall mean the method or combination of methods determined after problem assessment, examination of alternative practices, to be the most effective and practicable means of reducing or preventing nonpoint source pollution to levels compatible with water quality goals. These measures could include both structural (e.g., sediment/debris basins, wetland impoundment of agricultural runoff, etc.) and nonstructural (e.g., street vacuuming, deferred grazing systems, etc.) approaches to abatement of nonpoint source pollution, and would vary on a regional and local basis depending on the nature of the problems, climate, physical characteristics, land use, soil types and conditions, and other factors.
- C. "Concurrent" shall mean that public facilities and services are available within a "reasonable time frame", as defined in the Manatee County Comprehensive Plan, to serve/mitigate the Development's* impacts. A reasonable time frame for transportation facilities shall be roadways or roadway improvements that are scheduled for construction completion within the first two years of the Manatee County Comprehensive Plan Capital Improvements Element, roadways or roadway improvements that are scheduled for construction completion within the first year of the Sarasota County Comprehensive Plan Capital Improvements Element, or roadways or roadway improvements currently under construction

- or scheduled for construction completion within the first two years of FDOT's Adopted Five-Year Work Program. In addition, roadways or roadway improvements to be constructed pursuant to a local government development agreement shall be deemed to be within a reasonable time frame if the agreement is in compliance with the standards of Rule 9J-5.0055(2)(a)4., F.A.C. and the agreement guarantees that the necessary facilities will be in place when the impacts of the development occur.
- D. "Developer" shall mean Phy Matrix Corporation, Lifecare Health Resources, Inc, 950 Cambridge Corporation, and Centex Homes, Inc., its heirs, assigns, designees, agents, and successors in interest as to the University Commons Development* and all its stipulations.
- E. "Development" shall mean the land uses by area, square footage, density, phase and type as described in this Development Order, to be constructed on the real property described in Section 8.
- F. "Development Approval" shall mean any approval for development granted through the Preliminary Site Plan*, Preliminary Plat, Final Plat, and Final Site Plan process or construction drawing approval where site plans or subdivision plats are not required.
- G. "Funding Commitment", "Funding", "Funded" or "Fund" shall mean a commitment by the Developer or other private entity, to fund the Developer's required improvements in the form of a contract, bond, letter of credit or other financial security deemed acceptable by Manatee County, or, for governmental entities, scheduled for construction completion in the first two years of the FDOT's adopted five-year work program or within the first two years of a local government's adopted capital improvement program.
- H. "Master Drainage Plan" shall mean a plan which shall show the proposed stormwater management components to be constructed for the entire project as follows:
1. existing topography;
 2. existing drainage features, both on site and off site, that will affect the drainage concept of the Development*; existing and developed drainage basins, with their direction of outfall;
 3. proposed stormwater management facilities, which shall include: detention lakes, connection of lakes, and the eventual outfall for these lakes;
 4. off site areas that historically drain through the property shall be addressed, as to the method that the applicant proposes to use to accommodate off site stormwater.
- I. "Preliminary Site Plan" (or "PSP") shall mean a Preliminary Master Site Plan or a Preliminary Site Plan for a Phase or Subphase as defined in The Manatee County Land Development Code, (Ordinance 90-01, as amended) for a Phase or Sub-Phase.
- J. "Post-Development Wetlands" shall mean any lands determined to be within jurisdictional limits defined by Chapter 62-301, Florida Administrative Code (F.A.C.) and implemented by the Florida Department of Environmental Protection ("FDEP"), or as defined within Chapter

40D-4, F.A.C., and implemented by the SWFWMD, including any wetland mitigation areas approved as part of development for this or any other project.

- K. "Responsible Entities" shall mean entities which will be responsible for construction of a given transportation facility, which entities may include the Developer or other private entity subject to a local government development agreement entered into pursuant to Chapter 163, Florida Statutes, or a governmental entity.
- L. "Transportation Impact Area" shall be defined as the roadway segments and intersections receiving transportation impacts where the traffic generated by the Development* shown on a proposed PSP* in combination with prior approvals of this project will be five percent (5%) (or whatever greater percentage may be employed from time to time by DCA, TBRPC, and the County) or more of the Level of Service "D" Peak Hour. This area is generally depicted on Revised Map J ("Exhibit B") which was based on data submitted with the NOPC.
- M. "Vertical Development" shall mean and shall be deemed to include the construction of new residential units and nonresidential units or the reconstruction or addition to any such structure.
- N. "Warranted" shall mean a determination by the County Transportation Department, or other responsible County department, based on generally accepted transportation engineering practices that the adopted Level of Service cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order. All vehicle trips on the roadway segment or intersection shall be counted regardless of their source in making this determination, not merely the trips generated by the Development*.

The definitions contained in Chapter 380, Florida Statutes, shall also apply to this Development Order.

SECTION 5. DEVELOPMENT CONDITIONS:

- A.(1) This Approval is limited to the Development* and Development* schedule listed in Table 1 in Section 3 of this Development Order. Phase I is specifically approved subject to the conditions of this Development Order and concurrency review for items listed in Section 5.A.(2). Phase II is conceptually approved subject to further Section 380.06(6), Florida Statutes analysis and review on air quality and transportation. The Development Order shall be amended to grant specific approval to Phase II.
- A.(2) Preliminary and Final Site Plan approvals shall be granted on the basis of demonstrated compliance with The Manatee County Comprehensive Plan and the Land Development Code, as amended, and the availability of level of service for, but not limited to, roadway capacity, mass transit, potable water, sanitary sewer, parks and recreation facilities, drainage, and solid waste service, necessary to serve the Development*. Roadway capacity shall be analyzed on a cumulative basis for purposes of an impact analysis.
- A.(3) Phase I is approved until September 14, 2003. Should adequate capacity not exist for the development of the that portion of Phase I sought to be developed, no approvals shall be

granted until adequate capacity becomes available, the developer commits to provide capacity improvements through a Land Development Agreement, or the developer makes the improvement required to maintain the adopted Level of Service.

- A.(4) The Developer* shall submit a Preliminary Site Plan* for Phase I, or any subphase thereof, within twenty four (24) months of the effective date of this Development Order. All portions of Phase I must have Preliminary Site Plan*, Final Site Plan, and Final Plat (or Building Permit if platting is not required) approval by September 14, 2003 and all portions of Phase II must have Preliminary Site Plan, Final Site Plan, and Final Plat (or Building Permit if platting is not required) approval by September 14, 2008.

Transportation

- B.(I) The Developer*, at its option, shall select one of the following alternatives to mitigate the project's Phase I transportation impacts:

- (a) Option 1

Phase I of the Development* shall require Funding Commitments* from Responsible Entities* for the roadway and intersection improvements listed in Table 2. Without Funding Commitments* for these improvements, construction permits for Vertical Development* shall not be issued for Phase I. The Funding Commitments* shall ensure that the roadway and intersection improvements needed are in place concurrent with the impacts of development. Signalization shall occur when Warranted* if Warranted* prior to buildout.

TABLE 2

Phase I (2000) Required Intersection Improvements for University Commons

Intersection Improvement Number	Inter-section	Traffic LOS Prior to Improvement	Development Traffic as a % of LOS "D" Peak Hour Capacity	Required Improvement
1.	Tallevast Road at Tuttle Avenue	F	7.4	Signalize when MUTCD Warranted* unless constructed by the County pursuant to the CIP (Funded).
2.	Intersection "F", Tuttle Avenue at North Project Access	N/A	N/A	Construct 1 left turn lane NB
3.	Intersection "B"/"E", Tuttle Avenue at Center Project Drive (east & west)	N/A	N/A	Construct 1 left-turn lane

				NB, SB, EB, & WB, 1 right-turn lane NB, SB & WB. Signalize when MUTCD Warranted*. Should pass through trips created by the opening of Broadway cause the signal to be Warranted*, the Developer* shall pay its proportionate share of the cost of a signal.
4.	Intersection "A"/"D", Tuttle Avenue at South Project Drive	N/A	N/A	Construct 1 right-turn lane SB, 1 directional left-turn lane SB & 1 right-turn lane NB, 1 right-turn lane EB with no left-turn allowable EB & 1 right-turn lane WB with no left-turn allowable WB.
5.	Intersection "H", Lockwood Ridge Road at Project Drive	N/A	N/A	Construct 1 left turn lane NB; & 1 left turn & 1 right turn lane EB. Signalize when MUTCD Warranted* if Warranted prior to buildout of residential units between Lockwood Ridge Road and Tuttle Avenue.
6.	Lockwood Ridge Road at University Parkway	F	7.7	Construct 2 nd left-turn lane NB, SB, EB, and WB. Construct 1 right-turn lane NB, SB, EB, and WB.
7.	Intersection "C", Tuttle Avenue at residential entry (east)	N/A	N/A	Construct 1 left-turn lane SB & 1 right-turn lane NB, & 1 right-turn lane WB.

The requirements of Option 1 are hereby satisfied by virtue of the following:

1. The County shall Fund* the construction of and construct the improvement identified as intersection improvement #6 in Table 2, pursuant to the following funding mechanism:

The Developer* has agreed to mitigate its proportionate share of intersection improvement #6 and assure the funding commitment for such improvement through the prepayment of projected impact fees for the transportation component of Phase 1 development. Manatee County shall utilize the Developer's* prepayment to construct or obtain the construction of the identified intersection improvement. Payment in an amount equal to the total projected payment, less any payments actually made for constructed development and less costs of engineering for the intersection paid by the Developer*, as set forth immediately below, shall be made within thirty days

(30) days of notice by Manatee County to the Developer* that such construction will begin within ninety (90) days.

Developer's* payment shall be secured through the posting of performance security, in a form reasonably acceptable to Manatee County, prior to issuance of permits for any further Vertical Development*. At the request of Manatee County, the Developer* will provide the engineering design for the improvement. The cost of the engineering design shall be a credit against impact fees due by the development and shall reduce the prepayment of the impact fees agreed to above, and shall reduce the amount of the bond. The provisions of this paragraph shall constitute a Development Agreement for purposes of demonstrating that a Responsible Entity* is constructing the improvement.

2. Intersection Improvements # 1 (unless constructed by the County pursuant to the CIP), 2, 3, 4, 5, and 7 shall be Funded* by the Developer*, and the geometric improvements required by such Improvements shall be constructed by the Developer*, prior to issuance of any Certificates of Occupancy for the land uses which will utilize these access drives (i.e., Residential, Personal Care, Service, Hotel, Commercial, and Office. The Funding* and construction of these intersection improvements shall be listed as a condition in any CLOS issued for the land uses identified in this subparagraph.
3. The Developer* may, if permitted by interlocal agreement between Manatee and Sarasota Counties and the Manatee County Comprehensive Plan, fund and construct a right-in/right-out driveway to provide direct access to University Parkway for the existing on site shopping center (i.e., Centre at University Parkway) (Completed).
4. By satisfying provisions B.(1)(a) of this Development Order, the Developer* has also satisfied the concurrency requirements of Rule 9J-5.0055(2), F.A.C.

B.(1)(b) Option 2

In the event that commitments for transportation improvements are only adequate to permit approval of a portion (subphase) of the Development*, the capacity and loading of transportation facilities in the University Commons DRI Transportation Impact Area*, including, but not limited to, the regional roadways and intersections referenced in Option 1, shall be limiting factors in any subsequent approvals. The subphase of development that is approvable in the adopted Development Order shall be specifically identified as to land use and square footage. The Developer* shall generate and provide the County, the Sarasota-Manatee Metropolitan Planning Organization ("MPO"), the Florida Department of Transportation ("FDOT") and the TBRPC, pursuant to the provisions of Section 380.06, Florida Statutes, with updated current traffic counts on the above listed roadways and projections of traffic volumes that will result from the completion of construction of the initially approved portion of Phase I plus that to be generated by the next portion for which the Developer* is seeking approval. Each updated traffic analysis shall serve to verify the findings of the DRI traffic analysis (referenced in Option I) or shall indicate alternate transportation improvements or mechanisms which, when implemented, will

maintain the roadways referenced in Option 1 at Level of Service D at peak hour (C peak in rural areas). Both the traffic counts and the projection of traffic volume shall be prepared consistent with generally accepted traffic engineering practices. Prior to any specific approval beyond initial subphase approval, the County shall ensure in written findings of fact that the above roadways (Table 2 above) are operating at or above Level of Service D at peak hours (C peak in rural areas), and that the expected trips to be generated by such approval, in addition to the traffic to be generated by other approved DRIs and other approved development would not cause the roadways to operate below Level of Service D at peak hours (C peak in rural areas). The Development Order shall be amended for each subphase to grant specific approval and to identify the roadway improvements associated with each subphase.

- B.(2) The Developer* shall construct on site roadways, bikeways, and pedestrian ways, as appropriate, singularly or in any combination to internally connect all on-site land uses. Failure to provide said internal connections shall require the submittal of a revised traffic analysis and submission of a Notice of Proposed Change to determine whether this change is a Substantial Deviation.
- B.(3) Beginning with the first annual report required by the Development Order (April 15th), an annual monitoring program consisting of peak hour traffic counts at the project entrances shall be instituted to verify that the projected number of external trips for the Development* are not exceeded. Counts will continue on an annual basis through project build-out, and the information shall be supplied with each required Annual Report. If an Annual Report is not submitted within thirty (30) days of its due date, or if the Annual Report indicates that the total trips exceed projected counts for the Development* by 15 percent or more, Manatee County shall conduct a Substantial Deviation determination pursuant to Subsection 380.06(19), Florida Statutes. This change will be presumed to be a Substantial Deviation. The results of the Substantial Deviation determination may also serve as a basis for the Developer* or reviewing agencies to request Development Order amendments.

If a variance greater than that identified above is determined to be a Substantial Deviation, the revised transportation analysis required pursuant to Subsection 380.06(19), Florida Statutes, will be based upon results of the monitoring program and agreements reached at another transportation methodology meeting to be held prior to the preparation of the new analysis.

- B.(4) Manatee County shall reserve the right to initiate procedures to identify and reserve right-of-way within the project site for future mass transit and roadway improvement needs, in accordance with legally mandated procedures and timeframes. This condition may not be implemented if the area of the project has a valid Preliminary Site Plan or if not in accordance with applicable law.
- B.(5) The Phase II transportation impacts shall be subject to review pursuant to Section 380.06(6), Florida Statutes. Commencement of Phase II of the Development* is subject to a determination by Manatee County that transportation capacity needed to serve Phase II is or will be adequate to meet the transportation impact of Phase II when such impact occurs. Such determination shall be made in accordance with the Manatee County or Sarasota County concurrency requirements in effect at the time of the Developer's* application for Certificate of Level of Service. In the event that transportation capacity is only available for a portion of Phase II, development of such portion may proceed, with development of the

balance of Phase II being subject to future determinations as to transportation capacity availability through a notice of proposed change pursuant to Section 380.06(19), Florida Statutes. Should it be determined at the time the Development Order is amended for specific approval of Phase II that any transportation mitigation will be required for the development of Phase II, or any sub-phase thereof, the Development Order shall be amended to incorporate such mitigation.

- B.(6) Prior to Final Site Plan approvals for the Nursing Facility and ACLF and Retirement Housing, The Developer* shall dedicate 25' as County road right-of-way from their western property line to Tuttle Avenue at the northern property line of the western parcel above the areas marked "Service (Nursing Facility) and Residential (ACLF and Retirement Housing)" on the University Commons Master Plan.
- B.(7) The Developer* shall dedicate 84' as County road right-of-way for the future extension of Broadway Avenue, from their western property line to Tuttle Avenue at the northern property line of the 14.4 acre "Office" parcel which lies between University Parkway and the 35.2 acre area marked "Residential (ACLF and Retirement Housing)" on the University Commons Map H.

As an alternative, the Developer* may dedicate this 84' County road right-of-way in a location through the 35.2 acre area marked "Residential (ACLF and Retirement Housing)" on the University Commons Map H, without the need for further DRI review, provided: 1) that the location of the intersection at Tuttle Avenue is approved by the Manatee County Planning and Transportation Departments, and 2) that the pending Final Site Plan for the Residential (ACLF and Retirement Housing) is withdrawn or substantially revised. If the Developer selects this option, a revised Map H shall be submitted to show the location of the dedicated right-of-way.

Dedication of the Broadway Avenue right-of-way shall occur with the first Final Site Plan approval for the ACLF/Retirement Housing or Office parcels.

- B.(8) The Developer* shall dedicate any road right-of-way necessary for the pending improvements to Lockwood Ridge Road prior to the first Final Site Plan or Final Plat approval for any residential development lying between Tuttle Avenue and Lockwood Ridge Road.
- B.(9) Developer shall reserve for the benefit of the Home Owners Association a 40' access easement from the single-family detached neighborhood at the centerline of Vintage Drive to Lockwood Ridge Road right-of-way.

Lands and Soils

- C.(1) The Developer* shall test on-site soils for the presence of hazardous agricultural substances/waste, pursuant to Chapter 62-730, F.A.C., prior to the commencement of land development activities in the area(s) to be developed. Contaminated soils shall be removed and disposed of properly, and the agricultural exemptions in Chapter 62-730, F.A.C., shall not apply.
- C.(2) The soil conservation measures referenced on Pages 14-and 14-3 of the ADA* shall be required.

Wetlands

- D.(1) Impacts to existing jurisdictional wetlands shall be minimized. All existing jurisdictional wetlands that are to remain on-site, after impacts are approved by appropriate agencies, and all wetlands created on-site to mitigate impacts to existing jurisdictional wetlands shall be treated as conservation areas.
- D.(2) The Developer* shall mitigate all unavoidable impacts to jurisdictional wetlands in accordance with the requirements of the Manatee County Comprehensive Plan. The wetland mitigation area shall be in addition to any littoral planting required to meet SWFWMD surface water management requirements, but such mitigation area may be located adjacent to, or incorporated into, such littoral zones provided the total acreage is the sum of mitigated and required littoral acreage.
- D.(3) All mitigation areas and littoral shelves shall be monitored for species diversity, composition, recruitment and exotic species encroachment. Additional planting shall be accomplished as necessary to maintain an 85 percent survival/cover of herbaceous wetland communities at the end of three (3) years and an 85 percent survival/cover of forested wetland communities at the end of five (5) years. Wetland mitigation security shall be required in accordance with applicable County ordinances.
- D.(4) No development activities shall be permitted within regional, state, or federal jurisdictional wetlands unless such activities are consistent with the rules and permitted by the permitting agency or agencies with jurisdiction, and are in accordance with the goals, objectives, and policies of The Manatee County Comprehensive Plan.
- D.(5) A thirty foot (30') or fifty foot (50') buffer zone, as required by the Comprehensive Plan, shall be established adjacent to Post-Development Wetlands*. All such wetland buffer areas shall be required to be dedicated to the County in a conservation easement, and shown on any Preliminary and Final Site Plans and subdivision plats containing land with wetland buffer areas. Each Development* phase, or subphase shall include deed restrictions that prohibit development activity and removal of native vegetation within the buffer unless approved by the County and any permitting agency or agencies with jurisdiction.
- D.(6) In conformance with TBRPC Policy 4.3.14, Xeriscape principals as a means to encourage water use efficiency and conservation shall be encouraged through recommendations in the Declaration of Covenants and Restrictions.

Vegetation and Wildlife

- E.(1) In the event that any species listed in Rules 39-27.003 through 39-27.005, F.A.C., are observed frequenting the site for nesting, feeding, or breeding, proper measures shall be employed to ensure conservation of the species, in coordination with the Florida Fish and Wildlife Conservation Commission (FWCC), the Environmental Management Department ("EMD"), and the Department of Community Affairs. If listed species are discovered, a Wildlife Conservation Plan shall be prepared and contain at a minimum information on impacts to listed species and measures proposed to provide its conservation. In the event on-site habitat management is required pursuant to this condition, a Wildlife Habitat Management Plan shall be prepared and include, at a minimum, listed species population information, proposed site management methods, and boundary protection. If required pursuant to this condition, the Wildlife Habitat Management Plan shall be submitted to the

FWCC, EMD, and DCA for review and approval.

- E.(2) Conservation areas as required by Condition D(1) shall be designated as such on the Development's* Master Plan known as Map H attached as Exhibit "D".
- E.(3) The mixed hardwood/pine community habitat located on the north side of the University Commons site shall be preserved intact or mitigated in accordance with FWCC policies and approved by EMD. This area may be used for passive recreation.

Historical and Archaeological Sites

- F.(1) Any historical or archaeological resources discovered during development shall be immediately reported to the Florida Department of State, Division of Historical Resources, ("Division of Historical Resources"), and treatment of such resources shall be determined by the Division of Historical Resources, in cooperation with TBRPC and Manatee County. Archaeological test excavations by a professional archaeologist shall be conducted on each such site to provide sufficient data to make a determination of significance prior to further disturbing activities in that area of the site. The final determination of significance shall be made by the Division of Historical Resources, in cooperation with TBRPC and the County. The appropriate treatment of such resources (potentially including excavation of the site in accordance with the guidelines established by the Division of Historical Resources) must be completed before resource-disturbing activities in that area of the site are allowed to continue.
- F.(2) A description of compliance with F.(1) above, shall be included in each Annual Report. A copy of the description of compliance shall be submitted to the Division of Historical Resources. Non-compliance with Condition F.(1) shall require a Substantial Deviation determination.

Water Quality and Drainage

- G.(1) Prior to the issuance of any further development permits for construction, the Master Drainage Plan* for the Development* shall be submitted to the FDEP, the Southwest Florida Water Management District (SWFWMD), and the TBRPC for review and to the County and the EMD for approval. The stormwater management systems shall be designed, constructed, and maintained to meet or exceed the requirements of Chapters 62-25, and 40D-4, F.A.C., to provide retention, or detention with filtration/assimilation treatment for the site during the 25 year, 24-hour design storm, and such that maximum post-development flows do not exceed pre-development flows for the same design storm. Future flows to the Pearce drain shall not be increased beyond the capacity (55 cfs) of the existing 48-inch pipe during a 25-year, 24 hour design storm, unless the Developer* demonstrates that higher flows can be accommodated by the Pearce drainage system without causing flooding problems within the system. Stormwater management plans for any portion of the site planned to drain south to the Phillippi Creek Main BA watershed shall be provided to the Stormwater Division of the Sarasota County Transportation Department for comment prior to approval by the County.
- G.(2) Best Management Practices* (BMP*) for reducing water quality impacts, as recommended by the FDEP and the SWFWMD in accordance with adopted regulations of those agencies, shall be implemented and include a street cleaning program for parking and roadway areas within the Development*.

G.(3) Surface water and groundwater quality shall be assured through the implementation of a Surface/Groundwater Monitoring Program, with appropriate sampling frequencies, in compliance with both the federal Environmental Protection Agency ("EPA") and the FDEP's quality control standards. This program shall be instituted before groundbreaking takes place, in order to obtain baseline conditions, and continue through project build-out. The Surface/Groundwater Monitoring Program shall include the following as a minimum:

- (a) The purpose of the sampling program shall be to determine existing background water quality conditions and the effects of the proposed Development* on water quality.
- (b) Water quality samples and flow measurements will continue to be collected two times per year (one wet and one dry season) through four years past the date of construction of the last phase of the Development*.
- (c) Adequate water quality parameters and sampling shall be selected to assist in making an accurate determination of water quality conditions, change in water quality, and the possible sources of contamination if such contamination is discovered. The program shall provide procedures for clean-up, retrofitting, or other steps to resolve identified on-site problems if applicable state or federal water quality standards are exceeded.
- (d) The proposed Surface/Groundwater Monitoring Program shall be submitted for approval to SWFWMD and, the County. Collected data shall be furnished to the County and SWFWMD as part of the Annual Report. Data shall be furnished immediately if problems are identified.
- (e) If separate systems are developed for the parcels east and west of Tuttle Avenue, the Surface/Groundwater Monitoring Program may allow the monitoring to terminate at different times.

G.(4) No discharges to groundwater shall be permitted on-site.

G.(5) The Developer*, or its designee, shall be responsible for maintaining the stormwater management system. The maintenance schedule for insuring proper water quality treatment shall be submitted to TBRPC, SWFWMD, and FDEP for review, and to EMD for approval, during the permitting process.

G.(6) Stormwater management system design shall, to the maximum extent possible, incorporate and utilize isolated wetlands. Mitigative measures may be acceptable to replace removed wetlands.

Hazardous Waste

H.(1) All University Commons tenants that generate hazardous waste should be required to utilize waste exchanges and other appropriate recycling methods to the extent possible and feasible. A report of such use shall be included in each Annual Report.

H.(2) The Developer*, in cooperation with the tenant businesses within the Development* shall develop an ongoing survey which will locate and catalog those tenant businesses where hazardous substances and wastes are generated, stored, or handled, and keep a record

of the disposition of those substances and wastes. The results of this survey shall be included in the Annual Report.

- H.(3) No on-site incineration of biohazardous waste shall be permitted unless approved by the County, EMD, and any state or federal agency or agencies with jurisdiction.

Energy

- I.(1) Adequate electrical service is available to serve the Development*. Electrical service will be provided by Florida Power & Light Corporation.
- I.(2) All tenants, businesses, residents, etc. of the Development* shall be notified in writing upon occupancy that the following energy-related practices are encouraged:
- o use energy alternatives, such as solar energy, resource recovery, and waste heat recovery and cogeneration, where economically feasible;
 - o obtain energy audits provided by energy companies or other qualified agencies;
 - o install water heater timers and set water heaters at 130 degrees Fahrenheit or lower;
 - o use landscaping and building orientation to reduce heat gain, where feasible, for all University Commons construction;
 - o promote energy conservation by employees, buyers, suppliers, and the public, as appropriate;
 - o reduce levels of operation of all air conditioning, heating, and lighting systems during non-business hours, as appropriate;
 - o institute and utilize recycling programs;
 - o utilize energy efficient packaging or recyclable materials; and
 - o install total energy systems on large facilities when cost effective.

Housing

- J.(1) The Developer* has completed a Chapter 380, Florida Statutes, affordable housing analysis which demonstrated that any need for affordable housing generated by the Development* is offset by the availability of affordable housing within the affordable housing study area of the Development*. The Affordable Housing Study was reviewed and approved by the DCA.

Economics

- K.(1) Excess infrastructure capacity constructed by the Developer* to potentially serve Phase II of the Development* shall be at the Developer's* risk and shall not constitute a basis for vested development rights for Phase II.

- K.(2) The Development* shall promote entrepreneurship and small and minority-owned business start-up, and encourage nondiscriminatory employment opportunities, pursuant to Chapter 187, Florida Statutes, and the FRCRPP. This condition shall apply only to non-residential portions of the project.

Wastewater

- L.(1) Phase II of the Development*, or any subphase thereof, is subject to a determination by the County that there exists adequate wastewater capacity to accommodate the impacts of Phase II, or the subphase thereof to be developed. Such Phase II determinations shall be made in accordance with the current Manatee County concurrency requirements, or those in effect at the time of the Developer's* application for a Certificate of Level of Service Compliance, whichever is more stringent. In the event that wastewater capacity is only available for a portion of Phase II, development of such portion may proceed, with development of the balance of Phase II being subject to future determinations as to wastewater capacity availability.
- L.(2) Wastewater service to each phase or subphase of the Development* shall be provided by the County utilizing a Regional Wastewater Treatment Plant owned and operated by the County. In the event that wastewater treatment or disposal capacity is not available as needed to serve the Development*, or a phase or subphase thereof, the Developer*, prior to the commencement of said phase or subphase thereof, shall participate, in accordance with applicable County ordinances, in the treatment plant expansion and the ultimate disposal of wastewater generated by the Development*, or a phase or subphase thereof. No septic system(s) shall be permitted within the Development*.
- L.(3) Sewer lift stations shall be designed using the best engineering practices and submitted to the County for review and approval. Several means of backup shall be provided to ensure against equipment failure and discharge of wastewater to the environment. These back-up devices shall consist of the following:
- (a) Lift stations with 35 HP (or less) motors shall have an auxiliary generator receptacle on the panel box.
 - (b) Stations with greater than 35 HP motors shall include an on-site stationary generator set with remote transfer capability.
 - (c) Wet wells to contain sewage line surcharges/overflows.
 - (d) Emergency by-pass pumpouts for tank trucks.
 - (e) 100 percent redundancy in lift station pumping equipment.
- The Developer*, at its option, may exceed these requirements.
- L.(4) The Developer* shall, prior to the first Final Site Plan approval, prepare and submit to the County, a plan to monitor on-site sanitary sewer lines for leaks or ruptures of the sewer lines which are maintained by the Developer*. The plan must be approved by the County, designate the entity(ies) to be responsible for the monitoring, and provide a time schedule which outlines the dates or frequency of monitoring. Faulty lines shall be replaced as quickly as possible. A report of inspections, results, and repairs shall be included in the Annual

Report. This requirement shall not apply should the sanitary sewer lines be turned over to and accepted by Manatee County as part of the public sanitary sewer system.

- L.(5) The disposal of waste into the sewer system shall comply with the Manatee County Sewer Use Ordinance (Ordinance No. 98-28) (See Exhibit "E").
- L.(6) The Developer* shall not utilize on-site wastewater treatment.
- L.(7) The Developer shall design and install an off-site 8-inch diameter force main beginning at the point of emergence from the University Commons property then running northward along Tuttle Avenue to the intersection with Tallevast Road. The Developer shall pay the full cost of said installation.

The Developer shall also participate with Manatee County in the installation of a 10-inch diameter force main beginning at the intersection of Tuttle Avenue and Tallevast Road and extending westward along Tallevast Road to the intersection with Prospect Road. The total cost of Developer participation in this section of 10-inch force main shall be determined by either of the following:

- a. Should the Developer install the force main, Developer shall obtain alternate Contractor bids for installation of both 8-inch and 10-inch diameter force main pipe and required fittings requested by Developer. The Developer shall install and pay for installation of a 10-inch diameter force main. Manatee County shall reimburse Developer for all costs associated with upsizing of force main from 8-inch to 10-inch.

-OR-

- b. Should Manatee County install the force main, alternate Contractor bids for both 8-inch and 10-inch diameter force main pipe and required fittings shall be obtained by Manatee County through competitive bid as part of the Tallevast Road Improvement Project. Developer shall pay to Manatee County, based upon the above noted competitive bids, those costs associated with installation of an 8-inch diameter line.

The Developer shall further participate with Manatee County in the installation of a 10-inch diameter force main beginning at the intersection of Tallevast Road and Prospect Road on Prospect Road northward to Whitfield Avenue; then westward on Whitfield Avenue to and tying into an existing gravity sewer manhole at the intersection of Whitfield Avenue and 33rd Street East. The total cost of participation in this section of 10-inch force main shall be determined by either of the following:

- a. Should the Developer install the force main, Developer shall obtain alternate Contractor bids for installation of both 8-inch and 10-inch diameter force main pipe and required fittings requested by Developer. The Developer shall install and pay for installation of a 10-inch diameter force main. Manatee County shall reimburse Developer for all costs associated with upsizing of force main from 8-inch to 10-inch.

-OR-

- b. Should either Manatee County or the Manatee County School Board, or a combination thereof, install the force main, alternate Contractor bids shall be

obtained for 4-inch, 8-inch, and 10-inch diameter force main pipe, including required fittings requested by the Manatee County School Board as part of the Kinnan Elementary School construction project. The Developer shall reimburse Manatee County for the total cost that the County incurred to construct an 8-inch diameter force main on Prospect Road and Whitfield Avenue, or shall pay such reimbursement to Manatee County for that 8-inch diameter force main as is established in a separate participation agreement prepared prior to final site plan approval.

The total cost of participation in upsizing the force main along the above-described Prospect/Whitfield route to serve the entirety of the proposed University Commons Development shall be paid by said Developer to Manatee County prior to the recording of the first Final Plat in Phase One of this project (excluding the area of existing 120 bed nursing facility).

Water

- M.(1) Phase II of the Development*, or any subphase thereof, is subject to a determination by the County that there exists adequate potable water capacity to accommodate the impacts of Phase II, or the subphase thereof to be developed. Such Phase II determinations shall be made in accordance with the current Manatee County concurrency requirements, or those in effect at the time of the Developer's* application for a Certificate of Level of Service Compliance, whichever is more stringent. In the event that potable water capacity is only available for a portion of Phase II, development of such portion may proceed, with development of the balance of Phases I or II being subject to future determinations as to potable water capacity availability.
- M.(2) The Developer* shall be responsible for the maintenance and operation or appropriate abandonment of any on-site wells. These wells shall be operated in accordance with the SWFWMD rules and regulations.
- M.(3) The water conservation fixtures and measures referenced in the ADA* shall be required. Water saving devices shall be installed in accordance with the Florida Water Conservation Act, Section 553.14, Florida Statutes.
- M.(4) The Developer* shall maintain all water lines and fire hydrants not dedicated to the County.
- M.(5) The Developer* shall, to the extent nonpotable water is available, use only nonpotable water to meet nonpotable water demands. For purposes of this Development Order, "nonpotable" water is defined as water emanating from any source other than a public water utility. The Developer* shall submit an acceptable plan to Manatee County and the TBRPC for the use of nonpotable water on-site. The plan shall be completed prior to the issuance of any further land development permits, and shall include an implementation timetable, as well as a determination of the availability and feasibility of using on-site wells, reclaimed wastewater, or stormwater retention ponds for irrigation purposes.
- M.(6) Adequate fire flow and water pressure to serve every building for which fire protection is required shall be maintained within the Development's* water supply system. "Adequate" for this condition shall mean the most restrictive applicable regulations of the Manatee County Comprehensive Plan, or any other mandatory regulations of any federal, state, or local agency with jurisdiction over this Development*.

- M.(7) The Developer* shall comply with the rules and recommendations of the SWFWMD in regard to protection of the groundwater resources in the Eastern Tampa Bay Water Use Caution Area or its successor.
- M.(8) Prior to any submittals by the applicant to the Manatee County Development Review Committee, the applicant shall provide a conceptual master plan for water and fire protection for approval by the Planning Department (Completed). The water and fire protection conceptual master plan shall show the extent of the water lines that shall be provided to serve the Development* including all source/discharge points. The water line shall be looped to provide an adequate source of water to the Development*. Water lines and fire protection shall be specified on the plans as per the requirements of the Comprehensive Plan, and the Fire Marshall, and the Planning Department:
- (a) The land use and dwelling units per gross acre shall be provided as necessary for residential use.
 - (b) Corresponding with the land uses, fire flow rates in gallons per minute shall be provided as specified by the Comprehensive Plan and the Fire Marshall.
 - (c) At time of development, it shall be the applicant's responsibility to provide these minimum fireflow needs.

Solid Waste

- N.(1) Phase II of the Development*, or any subphase thereof, is subject to a determination by the County that there exists adequate solid waste capacity to accommodate the impacts of Phase II, or the subphase thereof to be developed. Such Phase II determinations shall be made in accordance with the current Manatee County concurrency requirements, or those in effect at the time of the Developer's* application for a Certificate of Level of Service Compliance, whichever is more stringent. In the event that solid waste capacity is only available for a portion of Phase II, development of such portion may proceed, with development of the balance of Phase II being subject to future determinations as to solid waste capacity availability.
- N.(2) The Developer shall utilize available recycling programs from the County.
- N.(3) It is strongly suggested that the applicant investigate the possibilities associated with the mulching of the trees and brush that will be removed as land clearing operations commence. The mulch could then be retained on site to meet the Developer's* needs for landscaping and cover material during construction.

Education

- O.(1) The Developer* shall comply with an impact fee ordinance for education system improvements, if and when the Manatee County School Board adopts such an ordinance.

Recreation and Open Space

- P.(1) All on site recreation and open space areas not dedicated to the County or any other agency or agencies shall be maintained by the Developer*.

- P.(2) The Developer* shall comply with The Manatee County Comprehensive Plan with respect to provisions concerning parks or park sites. Designated recreation and open space areas shall not be changed from such uses unless approved by the County, in accordance with the Comprehensive Plan and the Land Development Code.
- P.(3) The recreation and open space components of the Development* shall be designated on the Preliminary and Final Site Plans in accordance with The Manatee County Land Development Code.

Police, Fire, and Health Care

- Q.(1) Emergency medical services and fire protection will be provided by Manatee County or the Southern Manatee Fire and Rescue District. The Developer* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, and equipping of emergency service facilities for fire and emergency medical services or any combination thereof. The Developer* may, with the concurrence of the County and fire district, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended use by the County and fire district or payment of impact fees, if applicable. An agreement as to pro-rata share, mutually acceptable to the County, fire district, and the Developer*, shall be reached prior to the issuance of permits for Vertical Development* for Phase I. The pro-rata share shall not exceed the total sum of impact fees anticipated from the Development* and any pro-rata lump sum payment shall be creditable against the payment of impact fees in accordance with applicable law.
- Q.(2) The Manatee County Sheriff's Office shall provide typical police protection to each phase or subphase of the Development*. The Developer* shall participate, in accordance with applicable County Ordinances, in any expansion of such services necessary to serve the Development* or any phase or subphase thereof.
- Q.(3) The Development* shall be designed and constructed to meet or exceed applicable provisions of the State Fire Code - Rule 4A-3.012., F.A.C.

Air

- R.(1) Commencement of Phase II of the Development* is subject to the determination by the County, using then prevailing FDEP guidelines, that any significantly adverse air quality impacts caused by Phase II, or any sub-phase thereof, will be mitigated prior to Vertical Development* of Phase II, or the development of any sub-phase thereof. In addition, the Phase II air quality impacts shall be subject to review pursuant to Section 380.06(6), Florida Statutes. Should it be determined at the time the Development Order is amended for specific approval of Phase II that any air quality mitigation will be required for the development of Phase II, or any sub-phase thereof, the Development Order shall be amended to incorporate such mitigation.
- R.(2) The Developer* shall implement the fugitive dust abatement procedures and air emissions control measures set forth on pages 13.1, 14.2, and 14.3 of the ADA*.

Floodplains/Disaster Preparedness

- S.(1) In order to minimize potential property damage from flooding, all elevations for habitable structures shall be at or above the base flood elevation and in accordance with local, state,

and federal requirements.

General Conditions

- T.(1) In the event that a Regional Activity Center is designated which would be applicable to the area in which the Development* is located, then the provisions governing developments within Regional Activity Centers shall, at the option of the Developer*, apply without the requirement for an amendment to this Development Order. Provided, however, that such designation shall not operate to reduce the requirements of this Development Order below applicable, adopted rules of the TBRPC and the DCA.
- T.(2) The Developer*, its successors, assigns and/or transferees, shall submit annual DRI reports in accordance with Section 380.06(18), Florida Statutes, to Manatee County, TBRPC, the State Land Planning Agency and other agencies, as may be appropriate, on April 15th of each year until such time as all terms and conditions of this Development Order are satisfied. Six (6) copies of this report shall be submitted to the Director of the Manatee County Planning Department or the Director's designee, who shall review the report for compliance with the terms and conditions of this Development Order and who may submit an appropriate report to the County Commission should the Planning Director decide further Orders and Conditions are necessary. The Developer* shall be notified of any Board of County Commissioners hearing wherein such report is to be considered or reviewed; provided, however, that receipt and review of any such report by the Board of County Commissioners shall not be considered as a substitute, modification or change of any conditions, or any terms or conditions of this Development Order. The Annual Report shall contain the following:
- a. Any changes in the plan of development, or in the representation contained in the ADA*, or in the phasing for the reporting year and for the next year;
 - b. A summary comparison of development activity proposed and actually conducted for the year;
 - c. Undeveloped tracts of land, other than individual single-family lots, that have been sold to a separate entity or developer;
 - d. Identification and intended use of lands purchased, leased or optioned by the Developer* adjacent to the original DRI site since the Development Order was issued;
 - e. An assessment of the Developer's* and the local government's compliance with the conditions of approval contained in the DRI Development Order and the commitments that are contained in the Application for Development Approval* and which have been identified by the County, TBRPC, or the DCA and being significant;
 - f. Any known incremental DRI Applications for Development Approval* or requests for a Substantial Deviation determination that were filed in the reporting year and to be filed during the next year;
 - g. An indication of a change, if any, in local government jurisdiction for any portion of the Development* since the Development Order was issued;

- h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;
 - i. A copy of any recorded Notice of the adoption of a Development Order for the subsequent modification of an adopted Development Order that was recorded by the Developer* pursuant to Subsection 380.06(14)(d), Florida Statutes;
 - j. A statement that all persons have been sent copies of the Annual Report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
 - k. Reports or information pursuant to conditions B.(3), F.(2), G.(3)(d.), H(1), and H.(2), of this Section 5.
- T.(3) The Manatee County Planning Director, or an authorized designee, shall be responsible for monitoring the Development* and ensuring its compliance with this Development Order. The data necessary for monitoring the Development* shall be generated by building permits, certificates of occupancy, the Annual Report, and on-site observations. The enforcement of the terms and conditions of this Development Order shall be through such means as are authorized by Chapter 380, Florida Statutes, and through the Manatee County Land Development Code.
- T.(4) The Developer* has elected, pursuant to Section 380.06(5)(c), Florida Statutes, to be bound by the rules adopted pursuant to Chapters 403 and 373, Florida Statutes, in effect at the time that this Development Order is issued. Accordingly, to the extent the provisions of Section 380.06(5)(c), Florida Statutes, affect the determination as to which rules promulgated pursuant to these statutes are applicable to the Development*, said election shall apply, notwithstanding any provision in this Development Order to the contrary.
- T.(5) In the event of a Development Order appeal or other legal challenge of this Development Order by the DCA, the Developer* shall pay all costs and fees of County staff and attorneys the County* is required to expend related to said appeal or legal challenge at the rate of the processing fee for the Development Order under the current Planning fee schedules. Payment of all billings by the Developer* related to such fees and costs shall be paid within 45 days of the submittal of an invoice.

SECTION 6. DEVELOPER* COMMITMENTS

The following are Developer* commitments set forth in the Application for Development Approval* (ADA*) and Sufficiency Responses dated May 23, 1989; August 21, 1989; December 29, 1989; July 19, 1990; and December 19, 1990 respectively which shall be honored by the Developer*, except as they may be superseded by specific terms or conditions of the Development Order. These commitments in no way limit the commitments within the ADA* that the Developer* will be responsible for, to the extent the commitments remain consistent with the project as revised.

A. General Commitments

The Development* will be designed to incorporate open space, landscaped green space, and an extensive lake system. (ADA*, Page 12.4)

The Developer* shall provide for pedestrian and nonvehicular access ways within the project wherever possible. (SRI, Page 12-1)

B. Air Quality

Cleared and disturbed areas will be grassed, mulched, or sprinkled as is appropriate as soon as possible after clearing. (ADA*, Page 13.1)

The Developer* shall be required to implement the fugitive dust abatement procedures and air emissions control measures indicated on pages 13 .1, 14 .2 and 14.3 of the ADA*.

C. Land & Soils

The soil conservation measures referenced on pages 14-1 and 14-3 of the ADA*, at a minimum, shall be required.

Clearing, grubbing, and site grading will be carried out only on areas where construction is imminent, and only within the specified limits of construction. Clearing and grubbing depth will be kept to the minimum necessary as dictated by accepted standards of site preparation and finished grading specifications. (ADA*, Page 14.2)

Wind erosion will be minimized by the wetting of drier soils during dry and windy periods, by minimizing construction time and by establishing vegetative cover on finished slopes as soon as possible after finished grading is complete. (ADA*, Page 14.2)

Soil erosion from pond and canal slopes will be minimized by utilizing appropriate slopes, minimizing construction times, and by establishing vegetative cover on finished slopes as soon as possible. (ADA*, Page 14.3)

Wetness limitations associated with soils will be overcome by local/area dewatering methods, where appropriate. (SRI, Page 12-1)

D. Vegetation and Wildlife

Best Management Practices* (BMP*), including the use of hay bales, silt fences, turbidity barriers, etc., will be utilized during construction to minimize any potential adverse effects to surface water. (ADA*, Page 15.4)

Oil and grease skimmers constructed at the outfall water control structures will minimize discharges of oils, greases, and floating debris to downstream receiving waters. (SRI, Page 12-3)

Native wetland species will be used for revegetation of constructed littoral zones. (ADA*, Page 22.1)

The wet detention ponds and wetland mitigation areas will be monitored to ensure that invasive plant species do not become established. (SRI, Page 12-2)

The stormwater management systems shall be designed, constructed, and maintained in accordance with Chapter 40D-4, F.A.C. Vegetated littoral shelves will encompass 35% of the minimum pond surface area to aid in nutrient and heavy metal uptake, as well as provide a natural appearance; and 3) bleed-down structures will be used to eliminate floatable debris and contaminants from the water before eventually discharging to the Pearce drainage canal. (ADA*, Page 22.3)

Retention/detention lakes will be designed as a visual amenity to adjacent land uses. (SRI, Page 12-1)

E. Public Facilities

1. Water Supply

The Developer* will provide water conserving plumbing fixtures where practical. (SRI, Page 12-4)

2. Wastewater Management

There will be no industrial/hazardous wastes from the proposed Development* deposited into Manatee County wastewater facilities. (ADA*, Page 21.1)

3. Solid Waste

No on-site solid waste disposal will be provided. (ADA*, Page 24.1)

4. Drainage

Maintenance for completed development components will include keeping all drainage structures and areas in good repair and maintaining healthy vegetative groundcover. (SRI, Page 12-2)

SECTION 7. CREDITS AGAINST LOCAL IMPACT FEES AND EXACTIONS

To the extent that the Developer* or its successors, or assigns are required hereunder to contribute land for a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, and the Developer* is also subject by local ordinance to impact fees or exactions to meet the same needs, the Developer* may apply for impact fee credit pursuant to Section 806 of the Manatee County Land Development Code; however, if the Florida Land and Water Adjudicatory Commission imposes any additional requirement, Manatee County shall not be required to grant a credit toward the local exaction or impact fee unless Manatee County determines that such required contribution, payment, or construction meets the same need that the local exaction or impact fee would address.

SECTION 8. LEGAL DESCRIPTION

Development of University Commons shall be restricted to the 286 acres currently owned by Phy Matrix Corporation, Lifecare Health Resources, Inc., Centex Homes, Inc., and 950 Cambridge Corporation and described by the legal description included as Exhibit "F" attached to, and made a part of, this Development Order.

SECTION 9. DEADLINE FOR COMMENCEMENT OF DEVELOPMENT

Physical development of the project shall commence within three (3) years of approval of this Development Order unless the time period for commencement is extended by the Board of County Commissioners; however no development shall occur until the expiration of the appropriate appeal for this Development Order expired. If more than five years shall have elapsed between approval of this Development Order and commencement of development under County Development

Approval*, or if any five year period shall expire without significant development activity on the site, the Board of County Commissioners may conduct a public hearing in accordance with the Land Development Code and may, at its option, based on testimony presented at that hearing, rescind or suspend or take other appropriate action on any and all approvals granted herein except where the failure to carry out development is attributable to factors beyond the control of the Developer* (such as the unavailability of permits because of inadequate public facilities, or for any other similar reason). For the purpose of this provision, "significant development" shall be the actual construction of site improvements or buildings as part of an ongoing effort to prepare improved land or buildings for sale, lease, or use.

SECTION 10. RESTRICTIONS ON DOWN-ZONING

Prior to September 14, 2003, the County may not down-zone or reduce the intensity or unit density permitted by this Development Order, unless the County can demonstrate that:

- A. Substantial changes in the conditions underlying the approval of the Development Order have occurred; or
- B. The Order was based upon substantially inaccurate information provided by the Developer*; or
- C. The change is clearly established by the County to be essential to the public health, safety, or welfare.

Any down-zoning or reduction in density or intensity shall be effected only through the usual and customary procedures required by statute and/or ordinance for change in local land development regulations.

For the purposes of this Development Order, the term "down-zone" shall refer only to changes in zoning, land use, or development regulations that decrease the development rights approved by this Development Order, and nothing in this paragraph shall be construed to prohibit legally enacted changes in zoning regulations which do not decrease the development rights granted to the Developer* by this Development Order. The inclusion of this section is not to be construed as evidencing any present or foreseeable intent on the part of the County to down-zone or alter the density of the Development*, but is included herein to comply with Paragraph 380.06(15) (c)3, Florida Statutes.

SECTION 11. ORDER BINDING UPON DEVELOPER*

This Order shall be binding upon the Developer*, its successors, assigns, or successors in interest.

SECTION 12. COMPLIANCE WITH CODES, ORDINANCES

All development undertaken pursuant to this Development Order shall be in accordance with all applicable local codes and ordinances in effect at the time of permitting, and other laws, except as specifically authorized herein.

SECTION 13. RENDITION

The Planning Department is hereby directed to send certified copies of this Development Order within thirty (30) days of the Board of County Commissioners approval effective date of this

Development Order to the Developer*, the DCA, and the TBRPC.

SECTION 14. NOTICE OF RECORDING

The Developer* shall record a notice of adoption of this Development Order as required pursuant to Chapter 380 Florida Statutes, and shall furnish the Planning Department with a copy of the recorded notice.

SECTION 15. SEVERABILITY

It is the intent of this Development Order to comply with the requirements of all applicable law and constitutional requirements. If any provision or portion of this Development Order is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then such provision or portion shall be deemed null and void, but all remaining provisions and portions of this Development Order shall remain in full force and effect.

SECTION 16. EFFECTIVE DATE

This Ordinance shall become effective upon filing of a certified copy with the Department of State; provided, however, that the filing of a notice of Appeal pursuant to Section 380.07, Florida Statutes shall suspend development authorization granted by this Development Order, until the resolution of said appeal. However, this is not intended to suspend development previously authorized pursuant to Ordinance 99-38 during the pendency of any appeal.

SECTION 17. RECONCILE INTO ONE DOCUMENT

This Development Order represents a codification of the existing approval for the project integrating those changes proposed in this Substantial Deviation Determination and approved by the Board of County Commissioners into a single Development Order and is for administrative convenience and is not intended to provide a new point of entry for current conditions and requirements of this project that are not related to this Notice of Proposed Change.

ADOPTED AND APPROVED with a quorum present and voting the 25th day of April, 2000.

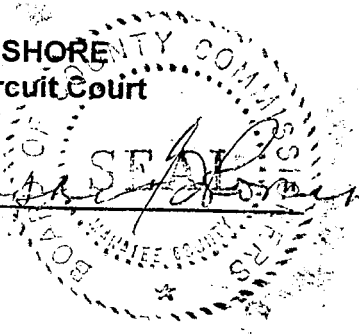
**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

Stan Stephens

Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

By: *[Signature]* *RC*



EXHIBITS A, B, C, AND F

ARE NOT ATTACHED BUT ARE ON FILE AT THE CLERK'S OFFICE AS ATTACHMENTS
TO THE PREVIOUSLY APPROVED ORDINANCE 92-31, APPROVED ON JUNE 3, 1992.

EXHIBIT D AND E ARE ATTACHED



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and
correct copy of the documents on file in my office.

Witness my hand and official seal this 1st day of

May 2000

R.B. SHORE
Clerk of Circuit Court

By: Robin L. Lundy D.C.

GRAPHIC LEGEND

- > PRIMARY ACCESS
- > SECONDARY ACCESS
- PARCEL BOUNDARY

SCALE: 1" = 500'

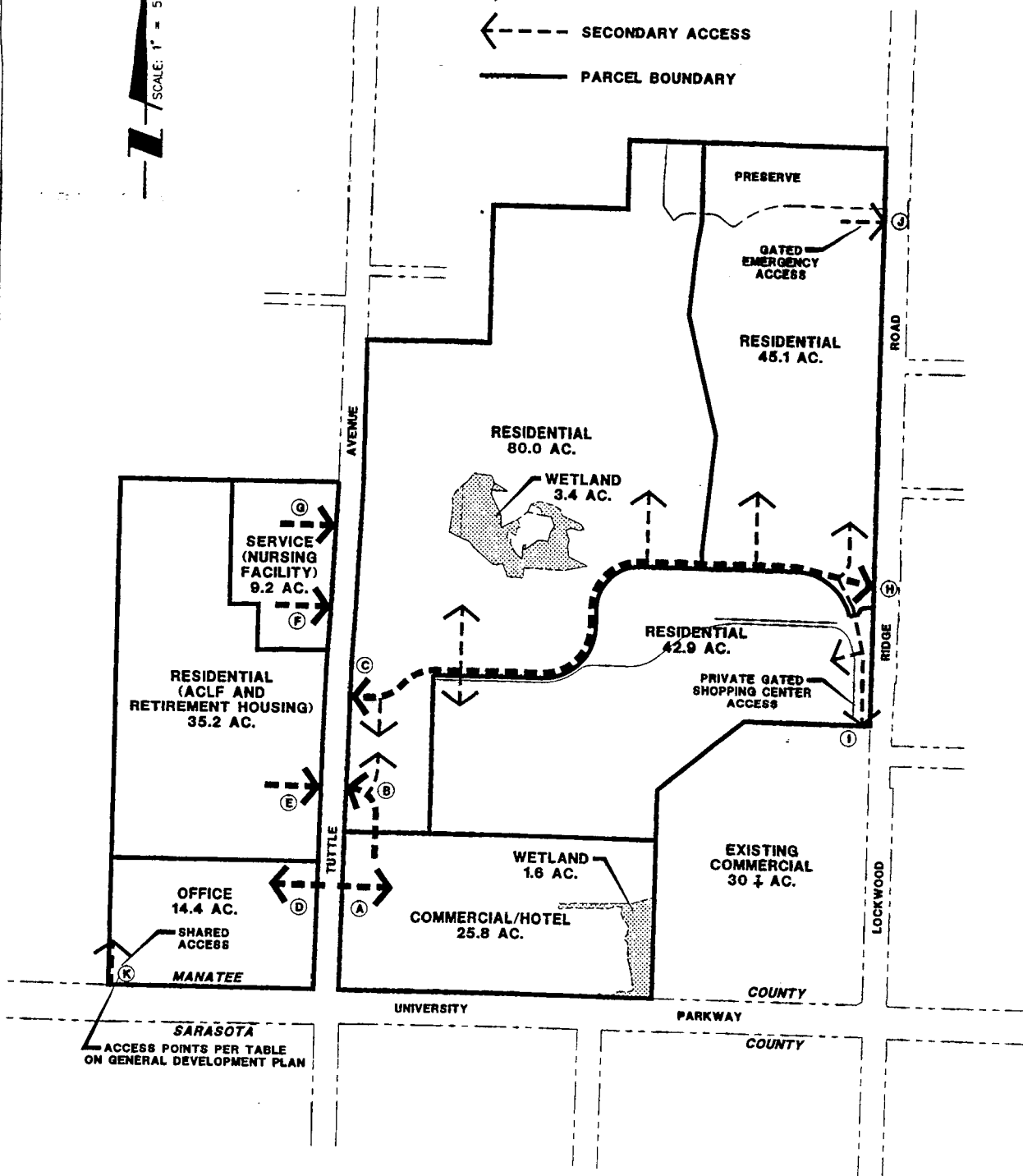


EXHIBIT D

MAP H

MASTER DEVELOPMENT PLAN

REVISED 4-10-00 ADDED LETTER DESIGNATIONS FOR ACCESS POINTS TO MATCH G.O.P. (RGH)
 REVISED 03-28-00 ADDED SHARED & EMERGENCY ACCESS POINTS (RGH)
 REVISED 10-26-99 ADDED & DELETED CONNECTION STREET TO COMMERCIAL/HOTEL SITE (MJS)
 Apr 11, 2000 - 09:33:09 RHAYESIX\ENG\2754\04\2754MAPH.dwg

PROJECT: UNIVERSITY COMMONS

CLIENT: CENTEX HOMES

WilsonMiller

Planners • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants

WilsonMiller, Inc.

Honolulu • Fort Myers • Sarasota • Bradenton • Tampa

6900 Professional Parkway East, Suite 100 • Sarasota, Florida 34240-9414 • Phone 941-907-6900 • Fax 941-907-6910 • Web Site www.wilsonmiller.com

COUNTY:	MANATEE	DATE:	AUGUST 1999
SEC:	33	TWP:	35S
		RGE:	18E
PROJECT NO:	S2754-201-000	INDEX NO:	B-2754-201-000008
OWNER BY/EMP NO:	MJS/1052	SHEET NO:	1 of 1

MICHAEL W. ELPERS, P.E.
 TIA REG. # 52617

MANATEE COUNTY
SEWER USE ORDINANCE
98-28

AN ORDINANCE OF MANATEE COUNTY, FLORIDA,
REGULATING THE USE OF THE COUNTY WASTEWATER
DELIVERY, TREATMENT AND DISPOSAL SYSTEM.

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, SUPERSEDING AND
REPLACING ORDINANCE 91-39; SETTING FORTH THE NECESSITY FOR
CONTROL OF THE USAGE OF THE PUBLIC WASTEWATER SYSTEM;
PROVIDING FOR ABBREVIATIONS AND DEFINITIONS; ESTABLISHING
GENERAL SEWER USE REQUIREMENTS; ESTABLISHING WASTEWATER
PRETREATMENT REQUIREMENTS; ESTABLISHING REGULATIONS FOR
HAULED WASTEWATER; REQUIRING WASTEWATER DISCHARGE PERMIT
APPLICATIONS FOR CERTAIN USERS; ESTABLISHING A PERMIT
ISSUANCE PROCESS; ESTABLISHING REPORTING REQUIREMENTS;
PROVIDING FOR COMPLIANCE MONITORING; PROVIDING FOR HANDLING
OF CERTAIN CONFIDENTIAL INFORMATION; PROVIDING FOR
PUBLICATION OF THE NAMES OF USERS IN SIGNIFICANT
NONCOMPLIANCE; PROVIDING FOR ADMINISTRATIVE ENFORCEMENT
REMEDIES; PROVIDING FOR JUDICIAL ENFORCEMENT REMEDIES;
PROVIDING FOR SUPPLEMENTAL ENFORCEMENT ACTION;
ESTABLISHING AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS;
PROVIDING FOR ESTABLISHMENT OF FEES AND OTHER CHARGES;
PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

MANATEE COUNTY SEWER USE ORDINANCE 98-23

PASSED AND DULY ADOPTED by the Board of County Commissioners of
Manatee County, Florida this 1st day of September, 1998.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: *Francis M. Glass* Chairman

ATTEST: R.B. SHORE
Clerk of the Circuit Court

By: *Suzanne Romo*

STATE OF FLORIDA, COUNTY OF MANATEE
I hereby certify that this is a true and
copy of ORDINANCE NO. 98-23 adopted by
Board of County Commissioners of Manatee County
the 1st day of September, 1998.
of September, 1998.

R. B. Shore
Clerk of Circuit Court
By: *Suzanne Romo* D.C.

MANATEE COUNTY SEWER USE ORDINANCE 98-23

(c) The user submitted notices as required under Paragraph C of this Section.

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in Paragraph (D)(1) of this section.

SECTION 14 - FEES AND OTHER CHARGES

The County may adopt, by resolution, reasonable fees for reimbursement of costs of setting up and operating the County's Pretreatment Program, which fees may include:

- A. Fees for wastewater discharge permit applications, including the costs of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures, including the costs of collecting and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge plans and procedures and construction activities;
- D. Fees for filing appeals; and
- E. Other fees as the County may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, charges, fines, and penalties chargeable by the County.

SECTION 15- SEVERABILITY

If any provision of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 16 - EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Office of the Secretary of State.

MANATEE COUNTY
SEWER USE ORDINANCE
98-28

AN ORDINANCE OF MANATEE COUNTY, FLORIDA,
REGULATING THE USE OF THE COUNTY WASTEWATER
DELIVERY, TREATMENT AND DISPOSAL SYSTEM.

AN ORDINANCE OF MANATEE COUNTY, FLORIDA. SUPERSEDING AND
REPLACING ORDINANCE 91-39; SETTING FORTH THE NECESSITY FOR
CONTROL OF THE USAGE OF THE PUBLIC WASTEWATER SYSTEM;
PROVIDING FOR ABBREVIATIONS AND DEFINITIONS; ESTABLISHING
GENERAL SEWER USE REQUIREMENTS; ESTABLISHING WASTEWATER
PRETREATMENT REQUIREMENTS; ESTABLISHING REGULATIONS FOR
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APPLICATIONS FOR CERTAIN USERS; ESTABLISHING A PERMIT
ISSUANCE PROCESS; ESTABLISHING REPORTING REQUIREMENTS;
PROVIDING FOR COMPLIANCE MONITORING; PROVIDING FOR HANDLING
OF CERTAIN CONFIDENTIAL INFORMATION; PROVIDING FOR
PUBLICATION OF THE NAMES OF USERS IN SIGNIFICANT
NONCOMPLIANCE; PROVIDING FOR ADMINISTRATIVE ENFORCEMENT
REMEDIES; PROVIDING FOR JUDICIAL ENFORCEMENT REMEDIES;
PROVIDING FOR SUPPLEMENTAL ENFORCEMENT ACTION;
ESTABLISHING AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS;
PROVIDING FOR ESTABLISHMENT OF FEES AND OTHER CHARGES;
PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the County of Manatee, a political subdivision of the State of Florida, is the owner and operator of a County Water and Wastewater System, pursuant to the provisions of Chapter 63-1596, Laws of Florida, as amended, the provisions of Chapter 153, Florida Statutes, the provisions of County Ordinances (codified as Chapter 2-31, Code of Laws of Manatee County) and other applicable provisions of law, together with resolutions duly adopted by the Board of County Commissioners of Manatee County, Florida; and

WHEREAS, the Board of County Commissioners gave notice of a public hearing on an ordinance regulating the use of the County's wastewater system, and duly held said hearing.

In accordance with the foregoing and for the purposes herein stated, NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, as follows:

**MANATEE COUNTY
SEWER USE ORDINANCE
98-28**

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**MANATEE COUNTY
SEWER USE ORDINANCE
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ORDINANCE NO. 98-28

SECTION 1 - GENERAL PROVISIONS

1.1 STATEMENT OF PURPOSE AND POLICY

This Ordinance sets forth uniform requirements for all users of the Publicly Owned Treatment Works for the County of Manatee and enables the County to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et. seq.*) and the General Pretreatment Regulations [Chapter 62-625, Florida Administrative Code (F.A.C.)]. This Ordinance supersedes and replaces Manatee County Ordinance 91-39.

The objectives of this Ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To establish fees for the equitable distribution of the cost of operation, maintenance and improvement of the Publicly Owned Treatment Works;
- E. To enable Manatee County to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject; and

MANATEE COUNTY SEWER USE ORDINANCE 98-28

- F. To improve opportunities to recycle and reclaim wastewater and wastewater residuals.

1.2 ADMINISTRATION

Except as otherwise provided herein, the Director of the Public Works Department or his/her duly authorized representatives shall administer, implement and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Director of Public Works may be delegated to the Industrial Compliance Manager or other county personnel.

1.3 ABBREVIATIONS

The following abbreviations, when used in this Ordinance, shall have the designated meanings:

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

COD - Chemical Oxygen Demand

EPA - U.S. Environmental Protection Agency

gpd - gallons per day

mg/l - milligrams per liter

NPDES - National Pollutant Discharge Elimination System

POTW - Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act

SIC - Standard Industrial Classification

MANATEE COUNTY SEWER USE ORDINANCE 98-28

TSS - Total Suspended Solids

U.S.C. - United States Code

1.4 DEFINITIONS

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated.

A. Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

B. Approval Authority. State of Florida Department of Environmental Protection.

C. Authorized Representative of the User.

(1) If the user is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship; a general partner or proprietor, respectively.

MANATEE COUNTY SEWER USE ORDINANCE 98-28

(3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.

(4) The individuals described in Paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the user, and the written authorization is submitted to the County of Manatee.

D. Biochemical Oxygen Demand or BOD. The quality of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l)

E. Bypass. The diversion of waste streams from any portion of an industrial user's treatment facility.

F. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in Chapter 62-625.410, Florida Administrative Code (F.A.C.).

G. County. The County of Manatee, Florida.

H. Director. The Director of the Manatee County Public Works Department, or his/her duly appointed and authorized deputies, agents, or representatives.

I. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

J. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

MANATEE COUNTY SEWER USE ORDINANCE 98-28

K. Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

L. Indirect Discharge or Discharge. The introduction of pollutants into Manatee County's Sanitary Sewer Collection System from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

M. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

N. Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts Manatee County's treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the County's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State Sludge Management Plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act, the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection and Sanctuaries Act.

O. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

P. New Source.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of

MANATEE COUNTY SEWER USE ORDINANCE 98-28

the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating process of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether the sources are substantially independent, factors such as the extent to which the new facility is integrated with the existing source, and the extent to which the facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph is deemed to have commenced if the owner or operator has:
- (a) Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of a new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation

MANATEE COUNTY SEWER USE ORDINANCE 98-28

within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Q. Non-contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product.

R. Pass Through. A discharge which exits any of Manatee County's Wastewater Treatment Plants into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Manatee County's NPDES permit, including an increase in the magnitude or duration of a violation.

S. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

T. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

U. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

V. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into any of Manatee County's Wastewater Treatment Plants. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

W. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

X. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Y. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances.

MANATEE COUNTY SEWER USE ORDINANCE 98-28

Z. Private Sewage Disposal System. Means a collecting, treating, and disposal facility installed, maintained and owned by persons other than the County which is discharging into Manatee County's Sanitary Sewer Collection System.

AA. Publicly Owned Treatment Works or POTW. A "treatment works" as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by Manatee County. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

BB. Relative Standard Deviation (rsd). Relative standard deviation (rsd), also known as the coefficient of variation (CV), normalizes the standard deviation when directly comparing analytical results that vary over a wide range of values. Relative standard deviation is a percentage of what is being measured relative to sample mean.

CC. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

DD. Sewage. Human excrement and gray water (household showers, dish washing operations, etc.)

EE. Significant Industrial User.

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to any of the Manatee County Wastewater Treatment Plants. (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of any of the Manatee County Wastewater Treatment Plants, or;

(c) Is designated as such by Manatee County on the basis that it has a reasonable potential for adversely affecting the County's operations or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting Manatee County's operations or for violating any pretreatment standard or requirement, the County may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in Rule 62-625.500 (2)(E),

MANATEE COUNTY SEWER USE ORDINANCE 98-28

Florida Administrative Code (F.A.C.), determine that such user should not be considered a significant industrial user.

FF. Slug Load or Slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards of this Ordinance.

GG. Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

HH. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

II. Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

JJ. User or Industrial User. Any person discharging wastewater into Manatee County's Sanitary Sewer Collection System.

KK. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are introduced into to the Wastewater Treatment Plants of Manatee County.

LL. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of sewage and industrial waste.

MM. Waters of the State. Means any surface or groundwater located within the boundaries of the State of Florida or over which the State of Florida exercises jurisdiction.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

A. General Prohibitions. No person or user, including an owner or operator of a private sewage disposal system, shall introduce or cause to be introduced into Manatee County's Sanitary Sewer Collection System any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the Sanitary Sewer Collection System, whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

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B. Specific Prohibitions. -No person or user shall introduce or cause to be introduced into Manatee County's Sanitary Sewer Collection System the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the Sanitary Sewer Collection System, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in Chapter 62-160, Florida Administrative Code (F.A.C.);
- (2) Wastewater having a pH less than 5.0 [or more than 11.5] , or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference [but in no case solids greater than 15 millimeters in any dimension];
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with Manatee County's receiving wastewater treatment plants.
- (5) Wastewater having a temperature greater than [104°F (40°C)], or which will inhibit biological activity in a wastewater plant resulting in interference;
- (6) Petroleum oil, nonbiodegradeable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by the Director in accordance with this Ordinance;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a safety hazard, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating Manatee County's NPDES permits;
- (11) Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable State or Federal regulations;

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- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Director in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, a treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the Sanitary Sewer Collection System;
- (17) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than [5%], or any single reading over [10%] of the Lower Explosive Limit of the meter.

C. The pollutants, substances, and wastewater prohibited in section B., above, shall not be processed or stored in such a manner that they could be discharged into Manatee County's Sanitary Sewer Collection System.

2.2 National Categorical Pretreatment Standards

The categorical pretreatment standards found in Chapter 62-625.410, Florida Administrative Code (F.A.C.) are hereby incorporated as if fully set forth herein, and all users shall comply with said standards.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with Chapter 62-625.410 (4)(b), Florida Administrative Code (F.A.C.).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined wastestream formula in Chapter 62-625.410 (6), Florida Administrative Code (F.A.C.).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in Chapter 62-625.700, Florida Administrative Code (F.A.C.), that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

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D. A user may obtain a net gross adjustment to a categorical standard in accordance with Chapter 62-625.700, Florida Administrative Code (F.A.C.).

2.3 Local Limits

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

<u>0.10</u>	mg/l arsenic
<u>9993</u>	mg/l BOD5
<u>250</u>	mg/l chloride
<u>0.05</u>	mg/l cadmium
<u>16.1</u>	mg/l chromium
<u>2.10</u>	mg/l copper
<u>0.98</u>	mg/l cyanide
<u>0.43</u>	mg/l lead
<u>0.03</u>	mg/l mercury
<u>0.04</u>	mg/l molybdenum
<u>0.86</u>	mg/l nickel
<u>180</u>	mg/l oil and grease
<u>0.12</u>	mg/l selenium
<u>4.05</u>	mg/l silver
<u>1146</u>	mg/l total suspended solids
<u>0.98</u>	mg/l zinc

The above limits apply at the point where the wastewater is discharged to Manatee County's Sanitary Sewer Collection System. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

2.4 Manatee County's Right of Revision

Manatee County reserves the right to establish, by Ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to Manatee County's Sanitary Sewer Collection System.

2.5 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards.

or requirements, or in other cases when the imposition of mass limitations is appropriate.

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.1 of this Ordinance within the time limitations specified by EPA, the State, or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the County of Manatee under the provisions of this Ordinance.

3.2 Additional Pretreatment Measures

A. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at the user's expense.

B. The users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Control Plans

At least once every two (2) years, the Director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

A. Description of discharge practices, including nonroutine batch discharges;

B. Description of stored chemicals;

C. Procedures for immediately notifying the County of any accidental or slug discharge, as required by this Ordinance; and

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D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage area, handling and transfer of materials, loading and unloading of storage areas, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

A. Septic tank waste may be introduced into a Manatee County Wastewater Treatment Plant only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate this Ordinance or any other requirements established by Manatee County. The Director shall require septic tank waste haulers to obtain wastewater discharge permits.

B. The Director shall require haulers of industrial waste to obtain wastewater discharge permits. The Director shall require generators of hauled industrial waste to obtain wastewater discharge permits. The Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Ordinance.

C. Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable standards, and each waste hauler shall pay the full cost of any analysis of such samples. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

D. Industrial waste haulers must provide a manifest form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characters of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. The manifest shall be signed and logged in prior to a discharge.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION

4.1 Water Analysis

When requested by the Director, a user must submit information on the nature and characteristics of its wastewater within sixty (60) days of the request. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Wastewater Discharge Permit Requirement

- A. No significant industrial user shall discharge wastewater into Manatee County's Sanitary Sewer Collection System without first obtaining a wastewater discharge permit from the Director, except that a significant industrial user that has filed a timely application pursuant to this Ordinance may continue to discharge for the time period specified therein.
- B. The Director may require other users to obtain wastewater discharge permits as deemed reasonably necessary to carry out the purposes of this Ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Ordinance and shall subject the wastewater discharge permittee to the sanctions set out in this Ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal, State and local pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

4.3 Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into any POTW prior to the effective date of this Ordinance and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Director for a wastewater discharge permit in accordance with this Ordinance, and shall not cause or allow discharges to any POTW to continue beyond forty-five (45) days after the effective date of this Ordinance, except in accordance with a wastewater discharge permit issued by the Director.

4.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into Manatee County's Sanitary Sewer Collection System must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with this Ordinance, must be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

4.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. The Director may require all users to submit as part of an application the following information:

- A. All information required by this Ordinance;

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- B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged into Manatee County's Sanitary Sewer Collection System;
- C. Number and types of employees, and hours of operation.
- D. Each product produced by type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- G. Time and duration of discharges; and
- H. Any other information as may be deemed reasonably necessary by the Director to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

4.6 Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

4.7 Wastewater Discharge Permit Decisions

The Director will evaluate the data furnished by the user and may require additional information within thirty (30) days of receipt of a complete wastewater discharge permit application. The Director will determine whether or not to issue a

wastewater discharge permit. The Director may deny any application for a wastewater discharge permit, for good cause.

SECTION 5 -WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to Manatee County's Wastewater Treatment plants.

A. Wastewater discharge permits must contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to Manatee County in accordance with this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge limits;
- (3) Effluent limits based on applicable pretreatment standards;
- (4) Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and

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(5) A statement of applicable civil and criminal penalties for violations of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

B. Wastewater discharge permits may contain, but not need be limited to, the following additional conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged into Manatee County's Sanitary Sewer Collection System;
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharge into Manatee County's Sanitary Sewer Collection System;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (8) Other conditions as deemed reasonably appropriate by the Director to ensure compliance with this Ordinance, and with State, Federal and local laws, rules, and regulations.

5.3 Wastewater Discharge Permit Appeals

The Director shall provide written notice directly to the User or applicant and a public notice in a local newspaper of general circulation, of the issuance of a

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wastewater discharge permit. Any person, including the user or applicant, may petition the Director to reconsider the terms of a wastewater discharge permit or the denial of a permit, within thirty (30) days of notice of its issuance or denial.

A. Failure to submit a petition for review within thirty (30) days of notice of the Director's decision, shall be deemed to be a waiver of any administrative appeal.

B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

C. The effectiveness of the wastewater discharge permit or the denial thereof shall not be stayed pending the appeal.

D. If the Director fails to act within sixty (60) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint in the Circuit Court in Manatee County, Florida, within the appropriate state limitations period.

5.4 Wastewater Discharge Permit Modification

The Director may modify a wastewater discharge permit for good cause, including, but not limited to, the following:

A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

C. A change in any of Manatee County's Wastewater Treatment Plants that requires a temporary or permanent reduction or elimination of the authorized discharge;

D. Information indicating that the permitted discharge poses a threat to the County's Wastewater Treatment Plants, County personnel, or the receiving waters;

E. Violation of any terms or conditions of the wastewater discharge permit;

- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of a grant or variance from categorical pretreatment standards pursuant to: Chapter 62-625.700, Florida Administrative Code (F.A.C.).
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

5.5 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

5.6 Wastewater Discharge Permit Revocation

The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Director of changed conditions pursuant to this Ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;

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- E. Tampering with the monitoring equipment;
- F. Refusing to allow the Director timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

5.7 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with this Ordinance, a minimum of sixty [60] days prior to the expiration of the user's existing wastewater discharge permit.

5.8 Regulation of Waste Received from Other Jurisdictions

A. If another municipality or other governmental entity, or user located within another municipality or other governmental entity, contributes wastewater into Manatee County's Sanitary Sewer Collection System, the County shall enter into an inter-local agreement with the contributing municipality or other governmental entity.

B. Prior to entering an agreement required by Paragraph A, above, the Director shall request the following information from the contributing government:

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- (1) A description of the quality and volume of wastewater discharged into Manatee County's Sanitary Sewer Collection System by the contributing government;
- (2) An inventory of all users located within the contributing government's territory that are discharging into Manatee County's Sanitary Sewer Collection System; and
- (3) Such other information as the Director may reasonably deem necessary.

C. Any inter-local agreement, as required by Paragraph A, above, entered into after the effective date of this Ordinance, shall contain the following provisions;

- (1) A requirement for the contributing government to adopt a Sewer Use Ordinance which is at least as stringent as this Ordinance, and local limits which are at least as stringent as those set out in this Ordinance. The requirement shall specify that such Ordinance and limits must be revised as necessary to reflect changes made to Manatee County's ordinance or local limits;
- (2) A requirement for the contributing government to submit a revised user inventory on at least an annual basis;
- (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing government; which of these activities will be conducted by the County; and which of these activities will be conducted jointly by the contributing government and the County;
- (4) A requirement for the contributing government to provide the Director with access to all information that the contributing government obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing government's wastewater at the point where it discharges into Manatee County's Sanitary Sewer Collection System;
- (6) Requirements for monitoring the contributing government's discharge;
- (7) A provision ensuring the Director access to the facilities of the users located within the contributing government's jurisdiction boundaries for the purpose of inspection, sampling, and any other duties deemed reasonably necessary by the Director; and

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(8) A provision specifying remedies available for breach of the terms of the interlocal agreement.

D. Any government entity contributing wastewater to Manatee County's Sanitary Sewer Collection System on the effective date of this Ordinance, without an interlocal agreement containing all of the above provisions, shall be automatically subject to all the discharge-related requirements and enforcement-related provisions of this Ordinance.

SECTION 6 - REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a categorical determination under Chapter 62-625.600, Florida Administrative Code (F.A.C.), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed on Paragraph B below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director a report which contains the information listed in Paragraph B below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below:

(1) Identifying Information. The name and address of the facility, including the name of the operator and owner.

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge into Manatee County's Sanitary Sewer Collection System.

(4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined formula set out in Chapter 62-625.410 (6), Florida Administrative Code (F.A.C.).

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(5) Measurement of Pollutants.

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this Ordinance.

(c) Sampling must be performed in accordance with procedures set out in this Ordinance.

(6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.2 of this Ordinance.

(8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.6 of this Ordinance.

(9) All baseline and self monitoring reports must include quality assurance calculations of recent spike resources and rsd calculations.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by this Ordinance:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major

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components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The user shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to the Director.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director a report containing the information described in this Ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in Chapter 62-625.600 (3), Florida Administrative Code (F.A.C.), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this Ordinance.

6.4 Periodic Compliance Reports

A. All significant industrial users shall, at a frequency determined by the Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by treatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4.6 of this Ordinance.

B. All wastewater samples must be representative of the user's discharge during the period covered by the report. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

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C. If a user subject to the reporting requirement in this Section monitors any pollutant more frequently than required by the Director, using the procedures prescribed in this Ordinance, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

Each user must notify the Director of any planned significant changes to the operation or system which might alter the nature, quality, or volume of its wastewater at least sixty [60] days before the change.

A. The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application pursuant to this Ordinance.

B. The Director may issue a wastewater discharge permit pursuant to this Ordinance or modify an existing wastewater discharge permit pursuant to this Ordinance in response to changed conditions or anticipated changed conditions.

C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty-five percent (25%) or greater, and the discharge of any previously unreported pollutants.

6.6 Reports of Potential Problems

A. In the case of any discharge, including but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

B. Within five (5) days following such discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to any of Manatee County's Wastewater Treatment Plants, natural resources, or any damage or injury to persons or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this Ordinance.

C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Paragraph A above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

6.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director as the Director may reasonably require.

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Director monitors at the user's facility at least once a month, or if the Director samples between the user's initial sampling and when the user receives the results of this sampling.

6.9 Notification of the Discharge of Hazardous Waste

A. A user shall notify the Director, the EPA Regional Waste Management Division Director, and the State hazardous waste authorities, in writing, of any discharge into Manatee County's Sanitary Sewer Collection System of a substance which, if otherwise disposed of, would be a hazardous waste under Chapter 62-730, Florida Administrative Code (F.A.C.). Such notification must include the name of the hazardous waste as set fourth in Chapter 62-625.600 (15)(a), Florida Administrative Code (F.A.C.), the EPA hazardous waste number, and type of discharge (continuous, batch, or other). If the user discharges more than one hundred kilograms of such waste per calendar month into Manatee County's Sanitary Sewer Collection System, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the waste, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under this Ordinance. The notification requirement in this Section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of this Ordinance.

B. Dischargers are exempt from the requirements of Paragraph A above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in Chapter 62-625.600 (15)(b), Florida Administrative Code (F.A.C.). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in Chapter 62-625.600 (15)(b), Florida Administrative Code (F.A.C.), requires a one time

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notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this Section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Ordinance, a permit issued thereunder, or any applicable Federal or State law.

6.10 Analytical Requirements

All pollutant analysis, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report, shall be performed in accordance with techniques prescribed in Chapter 62-160, Florida Administrative Code (F.A.C.), unless otherwise specified in an applicable categorical pretreatment standard. If Chapter 62-160, Florida Administrative Code (F.A.C.), does not contain sampling or analytical techniques for the pollutant in question, sampling and analysis must be performed in accordance with procedures approved by EPA.

6.11 Sample Collection

A. Except as indicated in Paragraph B below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab sample collection techniques.

6.12 Timing

Written reports will be deemed to have been submitted on the date postmarked, if mailed. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

6.13 Record Keeping

Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the names of the person(s) taking the samples; the dates analysis were performed; who performed the analysis; the analytical techniques or methods used; and the results of such analysis. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the County, or where the user has been specifically notified of a longer retention period by the Director.

SECTION 7 - COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The Director, and his/her representatives, shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Director, or his representatives, shall have the right to set up on the user's property, or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. The Director may require the user to install monitoring equipment as deemed reasonably necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user, at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the user.

E. Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this Ordinance.

7.2 Administrative Search Warrants

If the Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the County designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the County may seek issuance of an administrative search warrant from the Circuit Court of Manatee County.

SECTION 8 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable public records laws. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the user furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by Chapter 62-625.800, Florida Administrative Code (F.A.C.), will not be recognized as confidential information and will be available to the public without restriction.

SECTION 9 - PUBLICATION OF NAMES OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Director shall publish annually, in a local newspaper of general circulation, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

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- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- C. Any other discharge violation which the Director believes has caused either alone or in combination with other discharges, interference or pass through, including endangering the health of County personnel or the general public;
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of his/her emergency authority to halt or prevent such a discharge;
- E. Failure to meet, with ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within thirty (30) days after the due date any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance;
- H. Any other violation(s) which the Director reasonably determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When the Director finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written Notice of Violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

The Director may enter into Consent Orders, assurances of voluntary compliance, or other documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this Ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing

The Director may order a user which has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least twenty (20) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. If the alleged violating user is represented at the hearing by counsel, the County shall likewise be represented by the Office of the County Attorney or other assigned counsel.

10.4 Compliance Orders

When the Director finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer system. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.5 Cease and Desist Orders

When the Director finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.6 Administrative Hearings

Any administrative fines provided for this Ordinance shall be imposed only after the following hearing procedure has been complied with:

- A. The Director shall provide the alleged violating user with written notification of the specific violation(s) and the applicable sections of this Ordinance.
- B. The notification provided in Subsection A above shall inform the alleged violating user of a date, time and place for an administrative hearing, which hearing shall occur no earlier than ten (10) days after the violator's receipt of the notification.
- C. The Director shall preside over the administrative hearing and shall entertain testimony and evidence.
- D. The alleged violating user shall have the opportunity to be represented by counsel and to examine and cross examine witnesses.
- E. If the alleged violating user is represented at the hearing by counsel, the County shall likewise be represented by the Office of the County Attorney or the other assigned counsel.
- F. The Director shall issue written findings as soon after the hearing as is possible.

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G. The decision of the Director, if adverse to the alleged violating user, may be appealed to the Board of County Commissioners, in open session, for a final and binding decision. If an appeal is to be taken, written notice of the appeal shall be delivered to the Director no later than ten (10) days after the violator's receipt of the Director's written findings. The appeal shall be heard by the Board of County Commissioners within forty-five (45) days after the Director's receipt of the notice of appeal.

10.7 Administrative Fines

A. When, at the conclusion of an administrative hearing, the Director finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Director may fine such user in an amount not to exceed two-thousand dollars (\$2000.00) per violation. Such fines may be assessed on a per day basis, in the event of a multiple-day or continuing violation.

B. Unpaid charges, fines, and penalties shall after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the user's property may be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount, within thirty (30) days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

D. Levying of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.8 Emergency Suspensions

The Director may immediately suspend a user's permit or discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a user's permit or discharge, after notice and opportunity to respond, that threatens to interfere with the operation of any of Manatee County's Waste Water Treatment Plants, or which presents, or may present an endangerment to the environment.

A. Any user notified of a suspension of its permit or discharge shall immediately stop or eliminate its discharge. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed

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necessary, including immediate severance of the sewer connection, to prevent or minimize damage to any of Manatee County's Wastewater Treatment Plants, its receiving stream, or endangerment to any individuals. The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in this Ordinance are initiated against the user. The user shall pay all costs associated with reconnection to Manatee County's Sanitary Sewer Collection System.

B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under this Ordinance. Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

10.9 Termination of Discharge

In addition to the other provisions of this Ordinance, any user who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to change;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the pretreatment standards in this Ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under this Ordinance why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user.

SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When the Director finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition the Circuit Court of Manatee County for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Ordinance on activities of the user. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

11.2 Civil Penalties

- A. A user who has violated, or continues to violate, any provisions of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the County of Manatee for a maximum civil penalty of two-thousand dollars (\$2000.00) per violation, per day.
- B. The County may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the County.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

11.3 Criminal Prosecution

- A. A user who willfully or negligently violates any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than two-thousand dollars (\$2000.00) per violation, per day, or imprisonment for not more than sixty (60) days, or both.

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B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of misdemeanor punishable by a fine not more than two-thousand dollars (\$2000.00), or be subject to imprisonment for not more than sixty (60) days, or both. This punishment shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of not more than two-thousand dollars (\$2000.00) per violation, per day, or imprisonment for not more than sixty (60) days, or both.

11.4 Remedies Nonexclusive

The remedies provided for in this Ordinance are not exclusive. The Director may take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the County's enforcement response plan. However, the Director may take other action against any user when the circumstances warrant. Furthermore, the Director is empowered to take more than one enforcement action against any non-compliant user.

SECTION 12 - SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Performance Surety Bonds

The Director may decline to issue or reissue a wastewater discharge permit to any user who fails to comply with any provisions of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user files a satisfactory surety bond, payable to Manatee County, in a sum determined by the Director to be necessary to achieve consistent compliance.

12.2 Liability Insurance Or Other Financial Assurance

The Director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply or continues to fail to comply with any provision of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained liability insurance or other financial assurances sufficient to restore or repair damage to Manatee County's Sanitary Sewer Collection System and its Wastewater Treatment Plants.

12.3 Termination of Water Service

Whenever a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be terminated. Service will only recommence, at the user's expense, after he/she/it has satisfactorily demonstrated his/her/its ability to comply.

SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset

A. For the purpose of this Section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless improper operation.

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Paragraph (C) below are met.

C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

- (a) A description of the indirect discharge and cause of noncompliance;
- (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power for the treatment facility is reduced, is lost, or fails.

13.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in this Ordinance or the specific prohibitions in this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

A. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when Manatee County was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

13.3 Bypass

- A. For the purpose of this section,
- (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the user's treatment facilities which cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Paragraphs C and D of this section.
- C. (1) If a user knows in advance of the need for a bypass, he/she/it shall submit prior notice to the Director, at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the Director of a unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D. (1) Bypass is prohibited, and the Director may take an enforcement action against a user for a bypass, unless
- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

MANATEE COUNTY SEWER USE ORDINANCE 98-23

(c) The user submitted notices as required under Paragraph C of this Section.

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in Paragraph (D)(1) of this section.

SECTION 14 - FEES AND OTHER CHARGES

The County may adopt, by resolution, reasonable fees for reimbursement of costs of setting up and operating the County's Pretreatment Program, which fees may include:

- A. Fees for wastewater discharge permit applications, including the costs of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures, including the costs of collecting and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge plans and procedures and construction activities;
- D. Fees for filing appeals; and
- E. Other fees as the County may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, charges, fines, and penalties chargeable by the County.

SECTION 15- SEVERABILITY

If any provision of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 16 - EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Office of the Secretary of State.

MANATEE COUNTY SEWER USE ORDINANCE 98-23

PASSED AND DULY ADOPTED by the Board of County Commissioners of
Manatee County, Florida this 1st day of September, 1998.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: *Francis M. Glass* Chairman

ATTEST: R.B. SHORE
Clerk of the Circuit Court

By: *Susan B. Romo*

STATE OF FLORIDA COUNTY OF MANATEE
I hereby certify that the following is a true
copy of ORDINANCE NO. 98-23 adopted by the
Board of County Commissioners of Manatee County,
the 1st day of September, 1998, at 3⁰⁰
of September, 1998, in Manatee County, Florida.

R. B. Shore
Clerk of Circuit Court
By: *Susan B. Romo* D.C.

DIVISIONS OF FLORIDA DEPARTMENT OF STATE

Office of the Secretary
Division of Administration
Division of Corporations
Division of Cultural Affairs
Division of Elections
Division of Historical Resources
Division of Library and Information Services
Division of Licensing

MEMBER OF THE FLORIDA CABINET



FLORIDA DEPARTMENT OF STATE

Katherine Harris
Secretary of State
DIVISION OF ELECTIONS

HISTORIC PRESERVATION BOARDS

Historic St. Johns River Preservation Board
Historic Palm Bay Preservation Board
Historic Pensacola Preservation Board
Historic St. Augustine Preservation Board
Historic Tallahassee Preservation Board
Historic Tampa/Hillsborough County
Preservation Board

RINGLING MUSEUM OF ART

FILED FOR RECORD
R.B. SHORE
CLERK, CIRCUIT COURT
MANATEE COUNTY

MAY 12 8 02 AM '00

May 5, 2000

Honorable R. B. Shore
Clerk of the Circuit Court and Comptroller
Manatee County
Post Office Box 1000
Bradenton, Florida 34206

Attention: Janene Kearney, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated May 4, 2000 and certified copies of Manatee County Ordinance Nos. Z-89-46 (C)(R3) and 00-27, which were filed in this office on May 5, 2000.

As requested, the date stamped copies are being returned for your records.

Sincerely,

Liz Cloud, Chief
Bureau of Administrative Code

LC/mp

Enclosure

BUREAU OF ADMINISTRATIVE CODE

The Elliot Building • 401 South Monroe Street • Tallahassee, Florida 32399-0250 • (850) 488-8427
FAX: (850) 488-7869 • WWW Address: <http://www.dos.state.fl.us> • E-Mail: election@mail.dos.state.fl.us

Copies to:

Kim Sparks - 3 certified copies

Calif. Prisoner

MCC

Barry - BCC files

5/12/00

RU