

ORDINANCE 96-28

AMENDING SECTIONS OF 92-20, UNIFIED LAND DEVELOPMENT CODE

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Effective
9.25.96

ORDINANCE 96-28

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE 92-20, AS AMENDED, KNOWN AS THE UNIFIED LAND DEVELOPMENT CODE OF PALM BEACH COUNTY, FLORIDA, as follows: Section 1.6 (NONCONFORMITIES, GENERAL); Section 1.7 (NONCONFORMING USES); Section 1.8 (NONCONFORMING STRUCTURES); CREATING Section 1.12 (USES AND STRUCTURES WITHIN AN AIRPORT ZONE); Section 3.2 (DEFINITIONS); Section 4.5 (BOARD OF ADJUSTMENT); Section 4.13 (GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD); Section 4.26 (DIRECTOR OF ERM); Section 5.1 (GENERAL APPLICABILITY); Section 5.2 (SITE SPECIFIC (FUTURE LAND USE ATLAS) COMPREHENSIVE PLAN AMENDMENTS); Section 5.7 (VARIANCES AND APPEAL OF ADMINISTRATIVE DECISIONS); Section 5.8 (COMPLIANCE WITH TIME LIMITATIONS); Section 6.2 (DISTRICT PURPOSES AND USES); Section 6.4 (USE REGULATIONS AND DEFINITIONS); Section 6.5. (PROPERTY DEVELOPMENT REGULATIONS); Section 6.6 (SUPPLEMENTARY REGULATIONS); Section 6.7 (OVERLAY DISTRICT REGULATIONS); Section 6.8.A (PLANNED DEVELOPMENT DISTRICT REGULATIONS, GENERAL); Section 6.8.B. (PUD, RESIDENTIAL PLANNED UNIT DEVELOPMENT DISTRICT); Section 6.8.C. (TND, TRADITIONAL NEIGHBORHOOD DEVELOPMENT DISTRICT); Section 7.2. (OFF-STREET PARKING AND LOADING); Section 7.3 (LANDSCAPING AND BUFFERING); Section 7.6 (EXCAVATION) is repealed in its entirety and replaced with new Section 7.6 (EXCAVATION); Section 7.8 (MISCELLANEOUS STANDARDS); Section 7.14 (SIGNAGE); Section 9.1 (COASTAL PROTECTION); Section 9.4 (WETLANDS PROTECTION); REPEALING Section 7.5 (VEGETATION PRESERVATION AND PROTECTION) AND REPEALING Section 9.2 (ENVIRONMENTALLY SENSITIVE LANDS); AND CREATING Section 9.5 (VEGETATION PRESERVATION AND PROTECTION); Article 10 (IMPACT FEES); Section 14.2 (ENFORCEMENT BY CODE ENFORCEMENT BOARD AND/OR SPECIAL MASTER); Section 14.3 (GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD); Section 14.6 [ADMINISTRATIVE REMEDIES FOR ARTICLE 9, (ENVIRONMENTAL STANDARDS), SECTION 7.5 (VEGETATION PRESERVATION AND PROTECTION) SECTION 7.6, (EXCAVATION)]; Article 15 (TRAFFIC PERFORMANCE STANDARDS); Section 16.1 (ON SITE DISPOSAL SYSTEMS - ENVIRONMENTAL CONTROL RULE I); Section 16.2 (WATER SUPPLY SYSTEMS - ENVIRONMENTAL CONTROL RULE II); CREATING Section 16.4 (OPEN BURNING); CREATING Article 18 (AIRPORT ZONING REGULATIONS); PROVIDING FOR THE REPEAL OF ORDINANCE 78-2 IN ITS ENTIRETY (AIRPORT ZONING ORDINANCE FOR PALM BEACH COUNTY); PROVIDING FOR INTERPRETATION OF CAPTIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, establishes the right and power of counties to provide for the health, welfare, and safety of the existing and future residents by enacting and enforcing land development and administrative regulations necessary for the protection of the public; and

WHEREAS, the Unified Land Development Code was adopted on June 16, 1992, pursuant to Section 163.3202, Florida Statutes, to further growth management requirements; and

WHEREAS, Palm Beach County Ordinance 92-20 provided for the adoption of the Unified Land Development Code pursuant to Chapter 163, Florida Statutes; and

WHEREAS, Chapters 125 and 163, Florida Statutes, grant authority to the Board of County Commissioners to adopt and

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... (ellipses) indicates language not amended which has been omitted to save space.

1 enforce land development regulations within the unincorporated
2 area of Palm Beach County; and
3
4 **WHEREAS**, current information and increased population
5 require re-evaluation and adoption of updated development
6 standards; and
7
8 **WHEREAS**, the Board of County Commissioners has mandated that
9 County staff conduct periodic reviews of the Unified Land
10 Development Code to evaluate its various provisions and propose
11 amendments to resolve new or outstanding issues; and
12
13 **WHEREAS**, the Board of County Commissioners has determined
14 that periodic amendments to the Unified Land Development Code are
15 necessary to comply with the Comprehensive Plan, State Statutes
and federal law; and
16
17 **WHEREAS**, Chapter 162, Florida Statutes, permits local
18 governing bodies to establish Code Enforcement Boards and
19 procedures; and permits the assessment of civil penalties by code
20 enforcement boards for violations that are deemed by the board to
be irreparable or irreversible in nature; and
21
22 **WHEREAS**, the Board of County Commissioners has determined
23 that criteria and procedures are necessary to establish an
24 appropriate review process for commercial land use amendments;
and
25
26 **WHEREAS**, the Board of County Commissioners has determined
27 that it is in the economic interest of Palm Beach County to
ensure the payment of debts to the County in a timely manner; and
28
29 **WHEREAS**, the Board of County Commissioners has determined
30 that it is in the best interest of public welfare to ensure
31 developments are constructed and continuously operated in
32 accordance with the Unified Land Development Code, conditions of
approval and adequate public facilities; and
33
34 **WHEREAS**, the Board of County Commissioners has determined
35 that a process is needed to appeal decisions denying
36 administrative time extensions for development orders approved by
the Development Review Committee; and
37
38 **WHEREAS**, the Board of County Commissioners has determined
39 that the Unified Land Development Code should provide
40 opportunities for the co-location of certain compatible uses
41 while ensuring the protection of public safety and welfare by
the application of development standards; and
42
43 **WHEREAS**, the Board of County Commissioners has determined
44 that provisions to accommodate technological advances in the
45 field of telecommunications are necessary and in the best
46 interest of public, if designed and sited in locations ensuring
47 the least amount of impact on residential areas and on other
surrounding development; and
48
49 **WHEREAS**, the Board of County Commissioners has determined
50 that new development patterns should be accommodated by the
51 Unified Land Development Code to respond to market demand,
52 encourage economic development, provide incentive for
53 redevelopment, and to utilize vacant or under-utilized buildings
54 while maintaining the integrity of the zoning district through
reasonable restrictions and development regulations; and

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1 **WHEREAS**, the Board of County Commissioners has determined
2 that the Unified Land Development Code should be amended to
3 provide guidance on the application of development standards to
4 housing types which may have been approved by a development
5 order but are no longer permitted; and

6 **WHEREAS**, the Board of County Commissioners has determined
7 that provisions for amateur radio and television antennas
8 accessory to residential uses are necessary, with reasonable
9 limitations to protect the health, safety and welfare of
10 surrounding residential uses; and has identified the need to
11 establish a reasonable process through which the standards for
12 amateur radio and television antennas may be exceeded, while
13 ensuring adequate evaluation of the impact on surrounding
14 residential areas; and

15 **WHEREAS**, the Board of County Commissioners has determined
16 that the ULDC should be consistent with the Comprehensive Plan
17 and allow opportunity for evaluation of applications for
18 commercial excavation and mining activities in the Rural
19 Residential area in order to supply the fill source demand in
20 Palm Beach County; and has determined that applications for
21 commercial excavation and mining activities in the Rural
22 Residential Land Use Category should be subject to reasonable
23 restrictions and property development regulations in order to
24 protect the health, safety and welfare of the residential area.

25 **WHEREAS**, the Board of County Commissioners has determined
26 that reasonable locational, access, siting operational and
27 compatibility criteria, as well as certain other limitations,
28 should apply to commercial mining activities in the Rural
29 Residential areas in order to protect existing and future
30 residential development; and locational and access criteria is
31 critical in determining where commercial excavation operations
32 can be located in order to prohibit, where appropriate, and
33 minimize the impact of the mining and hauling activity on
34 surrounding land uses and streets, especially local residential
35 streets; and separation, setback and buffer requirements are
36 necessary to ensure protection of the health, safety and welfare
37 of surrounding residents; and

38 **WHEREAS**, the Board of County Commissioners has determined
39 that excavation operations should be permitted in conjunction
40 with a bona fide development order provided the fill remains on
41 site in order to reduce the demand to haul fill to the site; and

42 **WHEREAS**, the Board of County Commissioners has determined
43 that improved construction, environmental and reclamation
44 standards regarding mining and excavation will be beneficial to
45 the environment, further the protection of public health, safety
46 and welfare and reduce non-compliance and enforcement problems;
47 and the reorganization of the provisions for excavation and
48 mining activities are necessary to clarify and consolidate
49 existing language to ensure consistency and compliance with all
50 excavation and mining related activities; and

51 **WHEREAS**, the Board of County Commissioners has determined,
52 that commercial excavation and mining activities should comply
53 with all local codes and conditions of approval and non
54 compliance should result in expeditious compliance or revocation of
55 the development order, based on the impact such operations have
56 on surrounding land uses; and

57 **WHEREAS**, the Board of County Commissioners has determined

58 **WHEREAS**, the Board of County Commissioners has determined

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1 that the sign regulations contained in Section 7.14 of the
2 Unified Land Development Code are the minimum standards necessary
3 to promote the health, safety and welfare and aesthetics of the
4 community; and to insure that commercial signs are not given
5 preference over non-commercial signs, this ordinance is amended
6 to provide that any sign may contain non-commercial copy in lieu
7 of other copy.

8 **WHEREAS**, the Board of County Commissioners, on February 6,
9 1996, approved Resolution R96-168-D, A stipulated settlement
10 agreement with various firms owning billboards within the County,
11 including Ackerley Communications and 3M National Advertising, to
12 resolve long standing litigation regarding the amortization and
13 elimination of billboards within unincorporated Palm Beach
14 County; and the terms of the stipulated settlement agreement
15 require Palm Beach County to adopt amendments to the Unified Land
16 Development Code to codify the various provisions of the
17 agreement; and the proposed amendments have been reviewed by the
18 various signatories to the settlement agreement, and those
19 parties support adoption of the proposed amendment; and the Board
20 of County Commissioners finds this amendment implements the
21 billboard settlement agreement; and

22 **WHEREAS**, the initiation of the State Environmental Resource
23 Program on October 3, 1995, has resulted in a situation where the
24 County and the State would be providing a duplication of effort
25 and a waste of limited government resources by issuing permits
26 for the same projects in wetland areas; and the Board of County
27 Commissioners has expressed a desire to reduce or eliminate
28 duplicate permitting processes; and the proposed amendment to
29 Article 9, Section 9.4, Wetlands Protection ordinance, of the
30 Unified Land Development Code, suspends a duplicate dredge and
31 fill permitting process; and is not expected to diminish natural
32 resource protection efforts; and

33 **WHEREAS**, the Board of County Commissioners desires to
34 maintain the biological diversity of Palm Beach County by
35 protecting native upland communities and environmentally
36 sensitive lands from degradation and loss; and that the
37 alteration or destruction of native vegetation and
38 environmentally sensitive lands will cause an irreparable
39 environmental, educational, aesthetic, and cultural loss to the
40 citizens and visitors of Palm Beach County and will result in
41 harm and degradation to the quality of life, ground water,
42 surface waters, and air quality; and

43 **WHEREAS**, the Board of County Commissioners has determined
44 that it is in the best interest of the County to consolidate and
45 streamline the review processes for protection of native upland
46 communities and environmentally sensitive lands; and

47 **WHEREAS**, Article 10 of the Unified Land Development Code
48 sets forth a series of impact fees to generate a portion of the
49 funds required to defray the costs of providing adequate public
50 facilities necessitated by new development; and the Palm Beach
51 County Charter provides that County Ordinances shall prevail over
52 conflicting municipal ordinances in matters related to certain
53 impact fees; and

54 **WHEREAS**, the Palm Beach County Environmental Control Act,
55 Chapter 77-616, Special Act, Laws of Florida, provides that the
56 Palm Beach County Environmental Control Board shall adopt rules
57 necessary for the effective and continuing control and regulation
58 of the environment; and

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1 **WHEREAS**, Palm Beach County Environmental Control Act,
2 Chapter 77-616, Special Acts, Laws of Florida, authorized the
3 Board of County Commissioners of Palm Beach County, acting as the
4 Palm Beach County Environmental Control Board, to enact standards
5 for residents and visitors that will ensure sanitary practices
6 and freedom of the environment from contaminants or synergistic
7 agents which are injurious to human, plant or animal life or
8 which unreasonably interfere with the comfortable enjoyment of
9 life or property or the conduct of business; and the protection
10 of the residents and visitors from the health and environmental
11 hazards of improper onsite sewage treatment and disposal systems
12 and unsafe drinking water is necessary to promote the general
13 welfare; and current scientific information, and increased
14 population in the County and changes in state and federal
15 regulations require modifications to certain existing provisions;
16 and

17 **WHEREAS**, the BCC has determined that land clearing activity
18 associated with development results in the open burning of land
19 clearing debris; and such activity has a potential to adversely
20 impact surrounding areas; and that provisions regulating open
21 burning are necessary to promote the general welfare the
22 protection of the residents and visitors from the health and
23 environmental hazards of air pollutants and contaminants; and

24 **WHEREAS**, Chapter 333.03, Florida Statutes, mandates Palm
25 Beach County to enact Airport Zoning Regulations; and

26 **WHEREAS**, the Legislature of the State of Florida has found
27 that airport hazards endanger the lives and property of users of
28 the airport(s) and of the occupants of land in its vicinity, and
29 also, if of the obstruction type, in effect reduces the size of
30 the area available for the taking off, maneuvering, or landing of
31 aircraft, thus tending to destroy or impair the utility of the
32 airport(s) and the public investment therein; and

33 **WHEREAS**, the Legislature of the State of Florida has
34 declared that the creation or establishment of an airport hazard
35 and the incompatible use of land in airport vicinities are public
36 nuisances and injure the community service by Palm Beach County
37 airports; and

38 **WHEREAS**, the Legislature of the State of Florida has
39 declared that it is necessary in the interest of the public
40 health, public safety, and general welfare that the creation and
41 establishment of airport hazards and incompatible land uses be
42 prevented; and

43 **WHEREAS**, the Legislature of the State of Florida has
44 declared that airport hazards should be prevented to the extent
45 legally possible by the exercise of police power without
46 compensation; and

47 **WHEREAS**, it is the objective of this ordinance to regulate
48 uses of land within airport hazard areas and land use noise zones
49 that are incompatible with normal airport operations, and which,
50 if not regulated could increase the potential for personal injury
51 and property damage in the event of an aircraft accident.

52 **WHEREAS**, the Board of County Commissioners has determined
53 that it is in the best interest of the public to establish an
54 airport noise zone to give current and future residents, in
55 unincorporated Palm Beach County, notice that their property is
56 in a noise zone and may be affected by aircraft noise; and

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1 **WHEREAS**, the State of Florida has found that obstructions in
2 the path of aircraft taking off, landing, and maneuvering areas
3 impairs or destroys the utility of the airports and the public's
4 investment therein.

5 **WHEREAS**, the proposed amendments to the ULDC have been
6 reviewed by the Citizens Task Force at public workshops and
7 recommendations of the Citizens Task Force were forwarded to the
8 Board of County Commissioners; and

9 **WHEREAS**, the Board of County Commissioners determines the
10 proposed amendments will improve the procedures and standards of
11 the Unified Land Development Code; and

12 **WHEREAS**, the Board of County Commissioners, sitting as the
13 Land Development Regulation Commission, finds that this amendment
14 to the Unified Land Development Code is consistent with the
15 Comprehensive Plan; and

16 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
17 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:

18 **PART 1**

19 **Subpart** Section 1.6.C., Billboards as Conforming Uses and
20 Structures is created as follows:

21 **SEC. 1.6 GENERAL....**

22 **C. Billboards as Conforming Uses and Structures.** Billboards
23 constructed consistent with applicable zoning codes and
24 building permit procedures prior to November 15, 1988, and
25 included within the Stipulated Settlement Agreement for Case
26 No. CL 92-11887-AO, Case No. 92-8752-Civ-Gonzalez, Case No.
27 92-11887-AO, and Case No. CL 93-7958AH, shall be considered
28 conforming as to use and conforming as to structure.

29 **Subpart** Section 1.7., Nonconforming Uses, is amended to add and
30 delete language as follows:

31 **Sec. 1.7 NONCONFORMING USES.**

32 **A. Major and Minor Nonconforming Uses; General.** There are two ~~(2)~~
33 three (3) classes of nonconforming uses: (1) major, and (2)
34 minor, and (3) uses that are nonconforming to the Airport Zoning
35 regulations. Table 1.7-1 shall govern whether a nonconforming
36 uses is major or minor, except that any use in a location
37 nonconforming to the Comprehensive Plan Future Land Use Element
38 shall be deemed a major nonconforming use. ~~A nonconforming use is~~
39 ~~designated as major when it is established in a zoning district~~
40 ~~where the use is prohibited and the location is so significantly~~
41 ~~inappropriate that its location creates or threatens to create~~
42 ~~incompatibilities potentially injurious to the public welfare.~~
43 ~~Therefore, strict limits are set forth in this section for the~~
44 ~~expansion and continuation of major nonconforming uses. A minor~~
45 ~~nonconforming use is prohibited in the district in which it is~~
46 ~~located, or is inconsistent with the physical or permit~~
47 ~~requirements of this Code. Minor nonconforming uses do not create~~
48 ~~or threaten to create incompatibilities injurious to the public~~
49 ~~welfare. Therefore, provisions which allow limited expansion of~~
50 ~~minor nonconforming uses are established. A nonconforming use~~
51 ~~shall either be a major nonconforming use or minor nonconforming~~
52 ~~use as identified in Table 1.7-1. [Ord. No. 93-4]~~

Underlined language indicates proposed new language.

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Requirements for uses nonconforming to Airport regulations are set forth in Section 1.12. Uses that are either a major or minor nonconforming use and are also nonconforming to the Airport zoning regulations shall be regulated as follows:

(a) Uses deemed a major nonconforming use and nonconforming to the Airport regulations shall comply with the major nonconforming use provisions.

(b) Uses deemed a minor nonconforming use and nonconforming to the Airport regulations shall comply with both the minor nonconforming provisions and the Airport nonconforming provisions.

A- B. Major Nonconforming Use. A nonconforming use is designated as major when it is legally established in a zoning district where the use is now prohibited in such district under the terms of this code and the location is inappropriate so that its location creates or threatens to create incompatibilities ~~potentially injurious detrimental~~ to the public welfare. Therefore, strict limits are set forth in this section for the expansion and continuation of major nonconforming uses.

• • •

B- C. Minor Nonconforming Use. A minor nonconforming use is a use which was legally established in a zoning district where the use is now prohibited in the district in which it is located under the terms of this code, or is inconsistent with the physical or permit requirements of this Code. Minor nonconforming uses do not create or threaten to create incompatibilities injurious to the public welfare. Therefore, provisions which allow limited expansion of minor nonconforming uses are established.

• • •

2. Enlargement or expansion....

a. Prohibited in district....

b. **Noncompliance with physical limitations or permitting requirements.** A minor nonconforming use that is not in compliance with this Code's physical requirements, such as landscaping, locational criteria or parking regulations, or this Code's permit requirements, such as possessing a required development order for conditional use, may expand on one (1) occasion, pursuant to Development Review Committee review. Based on the standards set forth in this section, the DRC shall deny, approve or approve with conditions the request for expansion pursuant to the process established in Article 5.6 of this Code.

• • •

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Table 1.7-1
Schedule of Nonconforming Uses

Land Use Uses of Land	Zoning Districts																			
	P C	A O R	A P	S A	R E S	A R	C R S	R E	R T	R T S	R T U	R S	R M	R H	C N	C G	C G O	C L O	C R E	I L
AGRC ¹	A	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Res ²	A	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
RMF ³	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	B	B	B	B
MH ⁴	A	B	B	B	B	B	B	B	B	B	B	A	B	B	B	B	B	B	A	B
Comm-<25 ⁵	A	A	A	B	B	A	A	A	A	A	A	A	B	B	B	B	B	B	A	B
Comm->25 ⁶	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	A	A	B
OFF ⁷	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	B	A	B
L-Ind ⁸	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B
H-Ind ⁹	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B
Inst ¹⁰	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	B	B	B	B

Note:

1. Regardless of zoning district, whether a use is a major nonconforming or a minor nonconforming use is determined by the specific land use in a zoning district.
2. "A" constitutes a Major Nonconforming Use.
3. "B" constitutes a Minor Nonconforming Use.
4. AGRC means an Agricultural land use.
5. RSF means a Residential Single Family land use.
6. RMF means a Residential Multi Family land use.
7. MH means a Mobile Home land use.
8. Comm-<25 means a Commercial land use of less than 25,000 sq. ft.
9. Comm->25 means a Commercial land use of greater than 25,000 sq. ft.
10. OFF means an Office land use.
11. L-Ind means a Light Industrial land use.
12. H-Ind means a Heavy Industrial land use.
13. Inst means an Institutional land use.

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1 **Subpart** Section 1.8., Nonconforming Structures is amended to
2 add and delete language as follows:

3 **SEC. 1.8 NONCONFORMING STRUCTURES.** A nonconforming structure
4 devoted to a use permitted in the zoning district in
5 which it is located, may be continued in accordance
6 with the provisions in this section. Requirements for
7 structures nonconforming to Airport regulations are set
8 forth in Section 1.12.

9

10 **Subpart** Section 1.12., Uses and Structures Within an Airport
11 Zone is created as follows:

12 **SEC. 1.12 USES AND STRUCTURES WITHIN AN AIRPORT ZONE.**

13 **A. Applicability.** Uses permitted prior to the effective date of
14 the Airport Zoning regulations, (effective date), that lie
15 within regulated areas defined in Article 18 (Airport Zoning
16 Regulations), which does not comply with the Airport Land
17 Use Compatibility Schedule or Department of Transportation's
18 Guidelines for the Sound Insulation of Residences Exposed to
19 Aircraft Operations, or exceeds permitted height limitations
20 shall be considered a nonconforming use unless the structure
21 or use is brought into conformance with the provisions of
22 Article 18.

23 **1. Exemptions.** Land Uses within regulated areas defined in
24 Article 18, Section VII, D.2.(a), "Airport Land Use Noise
25 Zones for Airports Which Have Not Completed an FAR Part 150
26 Noise and Land Use Compatibility Study," are exempt from the
27 requirements of this section.

28 **B. Existing uses and occupancy.** The requirements of Article 18
29 shall not be construed to necessitate the removal, lowering
30 or alteration of a structure or building supporting an
31 existing use nonconforming to the requirements therein, or
32 otherwise interfere with the continuance of such use which
33 legally existed prior to (effective date of this ordinance)
34 provided the continuation does not jeopardize life or
35 health. Construction or alterations which existed or had
36 started prior to (effective date of this ordinance), and is
37 diligently pursued and completed in accordance with building
38 permitting requirements as defined by PZ&B, shall not be
39 required to comply with the provisions in Article 18.

40 **(1) Change in use and occupancy.** If a change of use is proposed
41 for an existing structure or building which does not comply
42 with the Airport Zoning provisions for that particular use,
43 as specified in the Airport Land Use Compatibility Schedule,
44 the entire structure or building shall be brought into
45 conformance with Article 18.

46 **C. Abandonment of a use.** If a use nonconforming to the Airport
47 Zoning regulations has been abandoned for 365 days (one
48 year), a permit cannot be issued to repair, reconstruct or
49 restore the structure to re-establish the use unless the
50 extent of the repair, reconstruction or restoration complies
51 with the requirements in Sec. VI.G. (Airspace Height
52 Regulations), and Sec. VII.E. (Off-Airport Land Use
53 Compatibility Schedule).

54 **D. Repair, reconstruction, restoration, or alteration of a**
55 **structure.**

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1 1. Height restrictions. No permit shall be granted that
2 would allow an existing structure to become higher or become
3 a greater hazard to air navigation than it was as of
4 (effective date of ordinance). All structures shall comply
5 with Article 18, Section VII.G. (Airspace Height
6 Regulations).

7 2. Use restrictions. Any permits to substantially alter,
8 repair, restore, reconstruct or rebuild a structure
9 supporting a non-conforming use shall comply with Article
10 18, Section VII.G. (Airspace Height Regulations), and Sec.
11 VII.E. (Off-Airport Land Use Compatibility Schedule). In
12 such cases the entire building or structure shall be brought
13 into conformance with these requirements. For the purposes
14 of this section, substantially alter shall mean:

15 a. the structure is more than 80 percent torn down, destroyed,
16 deteriorated, or decayed; or
17
18 b. the cost of repair, reconstruction or restoration exceeds
19 80% of the assessed value of the existing building or
20 structure; or,

21 c. the non-structural alterations or repairs exceed 50 percent
22 of the assessed value of the existing building or structure.

23 If the structure does not meet these criteria, then only the
24 new construction, alteration or repair shall be subject to
25 the requirements of Article 18.

26 E. Relocated Buildings. Buildings or structures moved into or
27 within Palm Beach County, into a RPZ or ALUNZ shall comply
28 with the height and noise level reduction provisions in
29 Article 18, as applicable.

30 F. Obstruction and marking requirements. Any repair,
31 restoration, reconstruction or alteration to a nonconforming
32 structure or establishment of a new use shall require
33 compliance with the Obstruction Marking and Lighting
34 provisions in Section VI of this Article.

35 Subpart Section 3.2., Definitions is amended to add and delete
36 language as follows:

37 SEC. 3.2 DEFINITIONS. Terms in this Code shall have the
38 following definitions. Supplemental definitions for
39 terms in Section 7.17 and Articles 9 and 15 are defined
40 in the referenced Section or Article. If a conflict
41 exists in terms between definitions found in Article 3
42 and Section 7.17 and Articles 9 and 15, the terms
43 defined in the specified Article shall apply.

44 ~~Alteration or materially alter~~ means the result of human caused
45 ~~activity which modifies, transforms or otherwise changes the~~
46 ~~environment, including but not limited to the following:~~

47 ~~1. The addition, removal, displacement, or disturbance (severe~~
48 ~~pruning, hatracking, poisoning) of vegetation, but shall~~
49 ~~exclude prescribed ecological burning for the management of~~
50 ~~native Florida communities, the removal of trees, seedlings,~~
51 ~~runners, suckers, and saplings of prohibited plant species~~
52 ~~identified in Article 9, Environmental Standards.~~
53 ~~2. Demucking and grading of soil.~~
54 ~~3. The removal, displacement, or disturbance of rock, minerals~~

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1 or water.
2 ~~4. The grazing of cattle or other livestock.~~
3 ~~5. The removal, addition, or moving of sand.~~
4 ~~6. Any construction, excavation or placement of a structure~~
5 ~~which has the potential to affect coastal biological~~
6 ~~resources, the control of beach erosion, hurricane~~
7 ~~protection, coastal flood control or shoreline and offshore~~
8 ~~rehabilitation.~~

9 Best Management Practices means practices which are a
10 technologically and economically feasible means of preventing or
11 reducing amounts of pollution generated by point and non-point
12 sources to a level compatible with the water quality and quantity
13 objectives of the County.

14 Director of Environmental Resources Management (ERM) means the
15 agency head of ERM.

16 ~~Environmentally sensitive lands mean ecological sites (ecosites),~~
17 ~~other than wetlands, that are designated in the Inventory of~~
18 ~~Native Ecosystems in Palm Beach County and on its accompanying~~
19 ~~aerial photographs as "A" quality, representing high quality~~
20 ~~native Florida upland ecosystems. These sites are indicated on~~
21 ~~the aerial photographs (received on May 30, 1989) that are on~~
22 ~~file at ERM and are incorporated herein by reference.~~

23 Excavate or excavation, means The extraction of minerals from the
24 earth necessary to (1) construct a single family dwelling; or (2)
25 support bona-fide agricultural production operations; or (3) to
26 implement a final site development plan; or (4) any act wherein
27 which material the earth is cut into, dug, quarried, uncovered,
28 removed, displaced, related or otherwise deliberately disturbed
29 to create a temporary or permanent body of water, including the
30 conditions resulting therefrom. Excavation excludes agricultural
31 plowing, site grading, dry retention/detention, demucking and
32 canal dredging in preparation for construction.

33 Excavated surface area means the area created to construct a
34 permanent or temporary body of water measured from outside edge
35 of the excavated area to outside edge of excavated area (top of
36 bank to top of bank).

37 Excavation, agricultural means excavation undertaken necessary to
38 support bona fide agricultural production activities operations,
39 including but not limited to the creation of ponds or lakes to
40 construct accessory structures supporting the agricultural use,
41 livestock ponds, canal laterals and roads, but excluding
42 customary agricultural activities such as plowing and maintenance
43 of canals and roads.

44 Excavation, commercial. See excavation, Type IIIA and Type IIIB.

45 Excavation, Type I (A) means excavation necessary to create a
46 pond to obtain fill for the construction of for the construction
47 of a single family dwelling as permitted by right in any zoning
48 district with or an accessory structure on a lot area greater
49 than one (1.0) acre or greater with an excavated surface area
50 less than two tenths (0.2) of an acre.

51 Excavation, Type I (B) means excavation necessary for the
52 creation of a pond or lake which shall be accessory to for the
53 construction of a single family dwelling or accessory use
54 permitted by right in any zoning district on a lot greater than
55 two and one half (2.5) acres or greater with an excavated surface

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1 area in excess of two tenths (0.2) of an acre but less than two
2 (2.0) acres.

3 ~~Excavation, Type II means excavation necessary to implement a~~
4 ~~final site development plan. means excavation necessary to create~~
5 ~~a lake which is required to implement a development order for a~~
6 ~~final site development plan provided a minimum of 90% of the~~
7 ~~extracted material remains on-site.~~

8 Excavation, Type IIIA means mining activity, primarily for
9 commercial purposes, that extracts materials from the earth and
10 may require limited on-site processing by using mobile crushers,
11 sifters and conveyor systems. A Type IIA excavation activity
12 shall not include the use of explosive devices or permanent
13 structures or equipment used to process material. means the
14 mining, quarrying, developing of mines for exploration of
15 nonmetallic minerals, except fuels, or other extractive materials
16 primarily for commercial purposes, including but not limited to
17 treating, crushing, or processing the material or off site
18 disposition for fill

19 Excavation, Type IIIB means mining activity, primarily for
20 commercial purposes, that extracts materials from the earth and
21 may require extensive processing of the material on-site. Type
22 IIIB excavations may involve the use of explosives and permanent
23 heavy industrial structures or equipment to crush, sift and
24 transport the material on site.

25 Excavation, West County Agricultural Area (WCAA) means excavation
26 necessary to support bona fide agricultural operations located
27 within the WCAA and has the Agriculture Production designation on
28 the land use map in the land use element of the Palm Beach County
29 Comprehensive Plan.

30 FDPR means Florida Department of Professional Regulation.

31 ~~Inventory of Native Ecosystems in Palm Beach County means reports~~
32 ~~and annotated arials produced during the study with this title,~~
33 ~~which was conducted by consultants under contract to Palm Beach~~
34 ~~County.~~

35 Mined Lake, excavated means a body of water, excluding canals of
36 conveyance, greater than one (1) acre in size or greater than six
37 (6) feet in depth from ~~OHW~~ OWL and which will remain open for
38 longer than one hundred eighty (180) days. Multiple (more than
39 one) bodies of water constructed on a parcel or parcels of
40 property under common ownership or control shall be considered a
41 mined lake when such water bodies have a combined surface area
42 greater than one (1) acre.

43 Mined Lake, excavated-existing, means a lake constructed, under
44 construction or to be constructed under permit of a
45 jurisdictional agency prior to ~~the effective date of Sec. 7-6~~
46 ~~(Excavation)- June 16, 1992.~~

47 Lake, mined means a lake created by the extraction of minerals
48 from the earth for commercial purposes.

49 Mangrove fringe means those shoreline mangrove areas whose width
50 does not exceed thirty (30) feet as measured from the landward
51 edge of the mangrove trunk most landward of MHW (or MHW itself in
52 the absence of any landward tree), waterward along a line
53 perpendicular to MHW, to the waterward edge of the mangrove trunk
54 most waterward of MHW.

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1 Mining means the extraction of materials from the earth,
2 quarrying, developing of mines for exploration of non-metallic
3 minerals, or other extractive materials primarily for commercial
4 purposes, including but not limited to treating, crushing, or
5 processing the material including off-site disposition of fill.
6 Mining operations are classified as either as a Type IIIA or Type
7 IIIB excavations and shall comply with the procedures and
8 standards for a Type III excavation operation.

9 Mining, commercial. See Mining and Excavation Type IIIA and Type
10 IIIB.

11 ~~Mining operation means the extraction of subsurface materials for~~
12 ~~use at a location other than the immediate construction site.~~

13 ~~Mitigation means an action or series of actions that will offset~~
14 ~~the adverse impacts to the native upland ecosystems in Palm Beach~~
15 ~~County that cause a project to be not approved.~~

16 Operating permit means the permit required of certain activities
17 to operate within wellfield zones, the criteria for which are set
18 forth under Sec. 9.43.

19 Ordinary High Water (OHW) means, for areas with an established
20 control elevation, the control elevation will be the OHW. For
21 areas without an established control elevation, the wet season
22 water table prior to the mining excavation activity will be OHW.

23 Ordinary Water Level (OWL) means the average level of water as
24 determined by an engineer or by the applicant's appointee. The
25 established water surface elevation shall consider seasonal
26 fluctuations in the groundwater table and other factors that may
27 cause fluctuations of the water level.

28 Pond. A permanent body of water less than 1 acre in size and less
29 than six feet (6') in depth.

30 ~~Preservation management plan means a plan that will provide for~~
31 ~~the perpetual viability of a designated preserve area including~~
32 ~~the ongoing control of invasive non native plant species.~~

33 Preserve or preserve area means that portion of native vegetation
34 which is required to be set aside from development to be retained
35 in its natural state in perpetuity, or other alteration
36 activities, protected from the removal of any native plant
37 species, managed to maintain viability for wildlife habitat, and
38 maintained free of non native plant species.

39 ~~Reclamation. Re-establishment of the soil and earth to a useable~~
40 ~~condition.~~

41 Street, local commercial means a street designed and maintained
42 primarily to provide legal and vehicular access to abutting land
43 commercial or industrial lots. A local commercial street is of
44 limited continuity, is not for through traffic, and is the middle
45 order street of minor streets. being of a higher classification
46 than a residential street

47 Street, local residential means a street designed and maintained
48 primarily to provide legal and vehicular access to abutting
49 residential lots. A local residential street is of limited
50 continuity, is not for through traffic, and is the middle order
51 street of minor streets, being of a higher classification than a

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1 residential access street.

2 **Tree** means a woody perennial plant commonly with a single ~~four~~
3 ~~(4) foot clear stem and having a minimum diameter at breast~~
4 height (dbh) of three (3) inches, having a more or less defined
5 crown, that usually grows to at least ~~fifteen (15)~~ four (4)
6 meters or thirteen (13) feet in height at maturity.

7 **Upland Reclamation area.** Land area preserved or re-established
8 around the perimeter of an excavated area created to ensure
9 useable end-use of the land.

10 **Upland reclamation planting.** Installation of vegetation to re-
11 establish plant and animal habitats.

12 ~~**Vegetation, protected** means all vegetation other than:~~

13 ~~1. Prohibited plant species; or~~
14 ~~2. Vegetation excluded from protection by Sec. 7.5 Vegetation~~
15 ~~Preservation and Protection.~~

16 ~~**Vegetation removal** means:~~

17 ~~1. The actual extraction of vegetation; or~~
18 ~~2. Direct or indirect actions resulting in the effective~~
19 ~~removal of vegetation through damaging or poisoning; or~~
20 ~~3. Similar actions directly or indirectly resulting in the~~
21 ~~death of vegetation.~~

22 ~~**Vine** means a plant with a flexible stem which normally requires~~
23 ~~support to reach mature form.~~

24 ~~**Violator** means a person who has been ordered by Code Enforcement~~
25 ~~to correct a violation.~~

26 ~~**West County Agricultural Area (WCAA).** The WCAA area is bounded~~
27 ~~roughly by Lake Okeechobee, Palm Beach Hendry County Line, and~~
28 ~~the South Florida Water Management District Levees L 4, L 5, L 6,~~
29 ~~L 7 and L 8. and is the agriculture production designation on the~~
30 ~~land use map of the land use element of the comprehensive plan,~~
31 ~~also known as the Everglades Agricultural Area (EAA).~~

32 **Subpart** Section 4.5.B., Board of Adjustment, Powers and duties
33 is amended to add language and renumber sections as
34 follows:

35 **B. Powers and duties.** The Board of Adjustment shall have the
36 following powers and duties under the provisions of this
37 Code:

38 ...

39 **4.** To hear, review, consider and approve or reverse decisions
40 of the Zoning Director and/or Airport Director on matters
41 pertaining to the enforcement of the airport zoning
42 regulations of Article 18, as provided in Chapter 333.08.,
43 Fla. Stat., 1995, as amended.

44 **4-5.**

45 **5-6.**

46 **Subpart** Section 4.13.B., Groundwater and Natural Resources
47 Protection Board, Powers and Duties is amended to add

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and delete language as follows:

B. **Powers and duties.** The Groundwater and Natural Resource Protection Board shall have the following powers and duties:

• • •

~~7. To levy fines not to exceed two hundred fifty dollars (\$250) for a first violation, or five hundred dollars (\$500) for a repeat violation, for each day a violation continues past the first day.~~

7. ~~2.~~ To lien property.

8. To assess administrative fines and costs pursuant to Article 14.

Subpart Section 4.26.B, Director of ERM, Jurisdiction, authority and duties is amended to add and delete language as follows:

B. Jurisdiction, authority and duties. In addition to the jurisdiction, authority and duties which may be conferred upon the Director of ERM by other provisions of the County Code and the County Charter, the Director of ERM shall have the following jurisdictions, authority and duties under this Code:

1. To review, consider and render interpretations to Art. 9, Environmental Standards and Secs. ~~7.5~~ and 7.6;

2. To review and approve, approve with conditions or deny applications for development or permits for ~~coastal protection~~, sea turtle protection and sand preservation, environmentally sensitive lands, wetlands protection, wellfield protection, upland vegetation preservation and protection, ~~removal~~, excavation, water and irrigation conservation, stormwater pollution prevention, and other ordinances as may be assigned by the Board of County Commissioners;

3. To initiate enforcement action pursuant to Article 9, and Secs. 7.5 and 7.6 whenever evidence has been obtained or received establishing that a violation has been committed. The Director of ERM shall issue a notice to correct the violation, a citation to cease the violation, or a notice of violation and cause same to be served upon the violator;

4. To terminate an investigation or an enforcement action commenced under the provisions of Article 9, ~~and~~ Secs. 7-5 and 7.6 and to resolve the alleged violations by execution of a written consent (settlement) agreement between the County and the person(s) who is(are) the subject of the investigation or action. The consent agreement shall provide written assurance of voluntary compliance with all the applicable provisions of the Code by said person(s). The consent agreement may, at the discretion of the Director of ERM, provide the following: remedial or corrective action; environmental mitigation; compensatory damages; punitive damages; civil penalties; costs and expenses of the County in tracing the source of any discharge, in controlling and abating the source of the pollutants and the pollutants themselves, and in restoring the waters and property, including animal, plant and aquatic life, of the County to

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1 their former conditions; and costs of the County for
2 investigation, enforcement, testing, monitoring, and
3 litigation Executed written consent agreements are hereby
4 deemed to be lawful orders or contracts of the County; and
5 ...

6 **Subpart** Section 5.1.A., General Applicability, Applicability is
7 amended to add and delete language as follows:

8 **SEC.5.1 GENERAL APPLICABILITY.**

9 **A. Applicability.** The All provisions of this section shall
10 apply to every application for a development permit-, except
11 for reviews pursuant to Sec. 5.8. Only Sec. 5.1.K., 5.1.M.,
12 and 5.1.O shall apply to reviews pursuant to Sec 5.8. Unless
13 otherwise specified, development orders and permits are
14 transferable to new owners and run with the land.

15 **Subpart** Section 5.1.F.4.e., Public Hearing procedures for
16 application for development permit, Conduct of Hearing
17 is amended to add and delete language as follows:

18 **e. Continuance or postponement of public hearing or meeting.**
19 **(1) Public Hearing Items.** The body conducting the public hearing
20 or meeting may, on its own motion or at the request of any
21 applicant, continue the public hearing or meeting to a fixed
22 date, time and place. An applicant shall have the right to
23 request and be granted one (1) thirty (30) day entitlement
24 continuance without an additional fee; however, all
25 subsequent continuances shall be granted at the discretion
26 of the body conducting the hearing only upon good cause
27 shown and shall be subject to a fee as established by BCC.
28 Any request for continuance shall be submitted in writing
29 five (5) working days prior to the hearing.

30 **(2) Development Review Committee.** Except for the entitlement
31 continuance, all applications for development continued for
32 more than six (6) months by the Development Review
33 Committee, must obtain approval from the Zoning Director.
34 All applications not continued for more than six (6) months
35 by the Zoning Director, shall be administratively withdraw.

36 **Subpart** Section 5.1.O., General Applicability, Outstanding
37 Liens or Fines is created as follows:

38 **O. Outstanding liens or fines.** Development Order applications
39 for properties which have outstanding liens or fines owed to
40 Palm Beach County shall be paid as required below:
41 1. Rezoning. DRC shall not approve a final site plan or
42 final subdivision plan until payment of any outstanding
43 liens or fines.
44 2. Conditional Use A or B, Development Order Amendment and
45 Variances. The approving body shall impose a condition of
46 approval requiring the payment of any outstanding liens or
47 fines by a date certain or prior to a specific event.
48 3. Applications for Uses Designated as a "D" in Table 6.4.1.
49 DRC shall not approve the application until the payment of
50 any outstanding liens or fines.
51 4. Time Extension Approved by the Zoning Commission or BCC.
52 The "Notice of Intent to Withhold Development Permits"
53 required by Section 5.8 shall not be released until payment
54 of any outstanding liens or fines.
55 5. In the event litigation contesting the validity of the

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1 lien or fine is initiated prior to the application for the
2 Development Order, the time for payment shall be established
3 only after the conclusion of litigation. In this case, a
4 condition shall be in place that requires the
5 owner/developer to notify the County Attorney at Final Order
6 and if the lien is upheld, payment of the lien shall be 35
7 days after Final Order.
8 6. Effectiveness. Notwithstanding the above, staff shall
9 review the effectiveness of this process and present a
10 report to the BCC in November 1997.

11 **Subpart** Section 5.2.D.7., Site Specific Comprehensive Plan
12 Amendments, Commercial Application Review and Track
13 Determination is created and sections renumbered as
14 follows:

15 **5.2.D.7. Commercial Application Review and Track Determination.**
16 Each commercial amendment request shall be classified
17 as either Track 1 or Track 2. The track determines the
18 level of review appropriate for a commercial amendment
19 request.

20 **a. Track Classification.**

21 **(1) Track 1: Consistency/Compatibility Review Application.** The
22 following criteria shall be considered by the Planning
23 Director, in making a favorable determination for a Track 1
24 Review:
25 **(a) The parcel is in a developed, or built-up area, and the**
26 roadway segments are predominantly built-out (the roadway
27 does not contain 1 mile of contiguous undeveloped land).
28 **(b) The parcel is within the boundaries of an adopted**
29 neighborhood plan, community plan, redevelopment area, or
30 special study area.
31 **(c) The parcel is within an area where a "commercial land use**
32 needs and location study" has already been completed.
33 **(d) The parcel is not of significant size, or the requested use**
34 is not of significant intensity, to require a commercial
35 land use needs and location study.
36 **(2) Track 2: Commercial Study Area Application.** Amendment
37 requests for parcels located within areas of the County
38 where the land use pattern has yet to be established, and
39 which do not meet any of the criteria as outlined in Sec.
40 5.2.D.7., shall be designated a Track 2 application. The
41 Development of Regional Impact (DRI) process and the Florida
42 Quality Development process shall substitute for the data
43 and analysis portion of the commercial land use needs and
44 location study.

45 **b. Procedural requirements.** The following process shall be
46 conducted to classify the review track.
47 **(1) The application is submitted to the Planning Director and**
48 the Director or designee classifies each request as either a
49 Track 1 or Track 2 application;
50 **(2) The Planning Director provides the determination to the Land**
51 Use Advisory Board (LUAB) at the first available meeting
52 following receipt of the application. The track
53 determination is affirmed or revised by the LUAB.
54 **c. Review determination.**
55 **(1) A Track 1 determination allows the applicant to proceed**
56 through the consistency/compatibility review as part of the
57 Comprehensive Plan Amendment Process.
58 **(2) A Track 2 determination requires that a commercial**
59 allocation study and market study be completed. The

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1 applicant shall coordinate with the Planning Division and
2 the LUAB in establishing the study boundaries and completing
3 the study. The study area boundaries shall be approved by
4 the LUAB based on the following factors:
5 (a) the type of commercial use CL-O to CH, and appropriate
6 market area for such use;
7 (b) existing and proposed development patterns;
8 (c) natural or man-made boundaries - i.e., canals; and
9 (d) travel and access patterns, existing & proposed roads, etc.

10 Following completion of the study, the applicant may then proceed
11 through the consistency/compatibility review portion of the
12 amendment process.

13 ~~8.7-~~ Notice....
14 ~~9.8-~~ Action by the Land Use Advisory Board sitting as the
15 Local Planning Agency....
16 ~~10.9-~~ Action by Board of County Commissioners....
17 ~~11.10-~~ Standards....

18 Subpart Section 5.7.B., Variances and Appeal of Administrative
19 Decisions, Authority is amended to add and delete
20 language as follows:

21 B. Authority.

22 1. The Board of Adjustment, in accordance with the procedures,
23 standards and limitations of this section shall approve,
24 approve with conditions, or deny an application for
25 development permit for a variance, after recommendation by
26 the Zoning Director, or County Engineer, whichever is
27 appropriate. The Board of Adjustment is granted the
28 authority to hear and decide on variances only to Art. 6
29 (except for Sec. 6.2, District Purpose and Intent and Table
30 6.4-1 Use Regulation Schedule), Art. 7, Site Development
31 Standards, Type IA and IB; excavations (except for Sec. 7.6,
32 (except for provisions in Sec. 7.6 which are regulated by
33 ERM) Type II and Type III Excavations; Art. 8, Subdivision,
34 Platting, and Required Improvements, Sec. 15.1, Traffic
35 Performance Standards, and Secs. 16.1 and 16.2, the
36 Environmental Control Rule I and II; and Art. 8-
37 Subdivision, Platting, and Required Improvements. 18,
38 Airport Zoning.

39 2. The Board of Adjustment is not authorized to grant a
40 variance to permit a use in a zoning district which does not
41 expressly permitted it under the terms of this code, except
42 as provided in the Airport Zoning regulations. Uses that lie
43 within an Airport zone that are determined to be
44 incompatible with Airport operations may seek variance
45 relief to establish such use pursuant to Article 18. This
46 provision in no way authorizes the Board of Adjustment to
47 grant a variance to establish a use in a zoning district
48 that prohibits it as defined in Sec. 6.4.D. of this code. in
49 the zoning district involved In addition, the Board of
50 Adjustment is not authorized to grant any use expressly
51 prohibited by the terms of this code in the said zoning
52 district or from a variance from a threshold requirement
53 that determines a specified review process.

54 3. Unless otherwise specified, the Board of Adjustment shall
55 hear and decide appeals from interpretation or decisions of
56 the Zoning Director ~~or, the County Engineer or Airport~~
57 Director regarding provisions of this Code pursuant to the

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- 1 procedures and standards in Article 2 of this Code.
- 2 a. In exercising its powers, the board of adjustment may, in
3 conformity with the provisions of this Code, reverse or
4 affirm, wholly or partly, or may modify the decision or
5 determination made by the Zoning Director ~~or, the County~~
6 Engineer or the Airport Director pursuant to this Code, and
7 make such order, recommendation, decision or determination
8 as ought to be made, and to that end shall have all the
9 powers of the officer from whom the appeal is taken.
- 10 b. In making its decision, the interpretation of the Zoning
11 Director ~~or, County Engineer or Airport Director~~ shall be
12 presumed to be correct and the applicant shall have the
13 burden to demonstrate the error.
- 14 4. In no case shall the Board of Adjustment grant a permit to
15 establish or re-establish a use prohibited in ~~the a~~
16 specified zoning district except as provided in Sec. 2.
17 above.
- 18 5. Airport Zoning. When reviewing variances to the Airport
19 zoning provisions, the Board of Adjustment may approve,
20 approve with conditions, postpone, or deny a variance for
21 the erection, alteration, or modification of any structure
22 which would cause the structure to exceed the federal
23 obstruction standards as contained in 14 C.F.R. ss. 77.21,
24 77.23, 77.25, 77.28, and, 77.29. The variance may not always
25 be evaluated or granted solely on the basis that the
26 proposal will not exceed these federal obstruction
27 standards. If applicable, the standards in Sec. 5.7.E. shall
28 be used to evaluate the variance application.
- 29 Subpart Section 5.7.D., Variances and Appeal of Administrative
30 Decisions, Procedure is amended to add and delete
31 language as follows:
- 32 D. Procedure.
- 33 1. General.
- 34 a. Submission of application. An application for a development
35 permit for a variance, except a variance to Art. 8,
36 Subdivision, and to Art. 18, Airport Regulations, shall be
37 submitted to the Zoning Director, along with a nonrefundable
38 application fee that is established by the Board of County
39 Commissioners from time to time to defray the actual cost of
40 processing the application. An application for a development
41 permit for a variance to Art. 8, Subdivision, shall be
42 submitted to the County Engineer, along with a nonrefundable
43 application fee that is established by the Board of County
44 Commissioners from time to time to defray the actual cost of
45 processing the application. An application for a variance to
46 Art. 18, Airport Regulations, shall be submitted to the
47 Director of Airports. All applications shall include a
48 nonrefundable application fee that is established by the
49 Board of County Commissioners from time to time to defray
50 the actual cost of processing the application.
- 51 ...
- 52 e. Airport zoning; FAA and FDOT comments required prior to
53 review by Board of Adjustment. Application for a variance
54 from the Airport Zoning regulations shall comply with the

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1 special review procedures in Article 18.

2 . . .

3 3. **Determination of sufficiency.** The Zoning Director, County
4 Engineer, or Airport Director, whichever is appropriate,
5 shall determine if the application is sufficient and
6 includes data necessary to evaluate the application within
7 five (5) working days of its receipt.

8 a. **Incomplete Application.** If the Zoning Director, ~~or~~ County
9 Engineer or Airport Director, whichever is appropriate,
10 determines that the application is not sufficient, a written
11 notice shall be served on the applicant specifying the
12 application's deficiencies. ~~The Zoning Director, or County~~
13 ~~Engineer, whichever is appropriate, Further action shall not~~
14 ~~take no further action place~~ on the application until the
15 deficiencies are remedied. If the applicant fails to correct
16 the deficiencies within twenty (20) working days, the
17 application shall be considered withdrawn.

b. When the application is determined to be sufficient, the Zoning Director or, County Engineer, or Airport Director whichever is appropriate, determines the application is sufficient, the Zoning Director, or County Engineer,, whichever is as appropriate, shall place schedule the application on for the next available hearing consistent with the Zoning Director's calendar.

25 4. Review and recommendation by the Zoning Director, ~~or~~ County
26 Engineer, or Airport Director.

27 a. Zoning and Subdivision variances. Within fifteen (15)
28 ~~working days after the application is determined sufficient,~~
29 The Zoning Director or County Engineer, ~~whichever is as~~
30 appropriate, and the other appropriate applicable County
31 Departments shall review the application and shall forward a
32 staff report, including recommended findings of fact and
33 conclusions of law, either recommending approval, approval
34 with conditions, or ~~disapproval~~ denial of the application
35 based upon the standards in Sec. 5.7.E. within fifteen (15)
36 working days after the application is determined sufficient.

37 . . .

38 d. **Airport Zoning variances.** An application for variance to the
39 requirements of Article 18 shall not be considered by the
40 Board of Adjustment until a copy of the application has been
41 furnished by DOA to the County Attorney, and FDOT (Aviation
42 Section) at least fifty (50) working days prior to the Board
43 of Adjustment public hearing.

44 (1) Additional Application Requirement for Variances to Height
45 Limitations. If the application is for a height variance,
46 the applicant shall forward a copy of the application by
47 Certified Mail to the FDOT, Aviation Office, and the FAA.
48 The FDOT shall have forty-five (45) days from receipt of the
49 application to provide comments to the applicant and the
50 Board of Adjustment, after which time that right to comment
51 is waived.

(2) Consideration of application. The Board of Adjustment may proceed with consideration of an application only upon receipt of FDOT comments or upon the applicant's filing a copy of a certified mail return receipt showing the forty-five (45) days have elapsed, demonstrating FDOT's intent to

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1 waive the right to comment.

2 **Subpart** Section 5.7.E.3., Variances and Appeal of
3 Administrative Decisions, Standards is amended to add
4 and delete language as follows:

5 3. **Noise violations (Sec. 7.8).** To authorize any variance to
6 Sec. 7.8.A.4, Noise, only the following standards must be
7 met.

8 ...

9 **Subpart** Section 5.7.E.4., Variances and Appeal of
10 Administrative Decisions, Standards, Airport height and
11 land use noise limitations (Art. 18) is created as
12 follows:

13 4. **Airport height and land use noise limitations (Art. 18).** In
14 addition to the criteria defined in Section 5.7.E.i. above,
15 the Board of Adjustment shall consider the following
16 standards to authorize variance to Art. 18.

17 a. The nature of the terrain and height of existing structures.

18 b. Public and private interests and investments.

19 c. The character of flying operations and planned developments
20 of airports.

21 d. Federal airways as designated by the FAA.

22 e. Whether the construction of the proposed structure would
23 cause an increase in the minimum descent altitude or the
24 decision height at the affected airport.

25 f. Technological advances.

26 g. The safety of persons on the ground and in the air.

27 h. Land use density.

28 i. The safe and efficient use of navigable airspace.

29 j. The cumulative effects on navigable airspace of all existing
30 structures, proposed structures identified in the applicable
31 jurisdiction comprehensive plans, and all other known
32 proposed structures in the area.

33 **Subpart** Section 5.7.F., Variances and Appeal of Administrative
34 Decisions, Conditions is amended to add and delete
35 language as follows:

36 **F. Conditions....**

37 1. **Marking and lighting.** A variance to Article 18 (Airport
38 Regulations Height Limitations) shall require the owner of
39 the subject structure or tree to install, operate, and
40 maintain thereon, at owner's own expense, marking and
41 lighting necessary to indicate to aircraft pilots the
42 presence of an obstruction. Such marking and lighting shall
43 conform to the specific standards established by the FDOT.

44 **Subpart** Section 5.8.A.1., Compliance with Time Limitations is
45 amended to retitle section, and add and delete language
46 as follows:

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SEC. 5.8 COMPLIANCE WITH TIME LIMITATIONS AND CONDITIONS OF
APPROVAL.

A. General. Purpose and intent.

1. It is the intent of the Board of County Commissioners to provide for the public health, safety and welfare by establishing procedures for mandatory review of certain development orders. Chapter 163, part II, Florida Statutes, entitled "Local Government Comprehensive Planning and Land Development Regulations Act" provides that all development regulations shall be consistent with the adopted comprehensive plan. Chapter 163 further provides that public facilities and services shall be available concurrent with the impacts of development. Pursuant to Chapter 163, the 1989 Palm Beach County Comprehensive Plan requires that the applicant for all development orders or permits must demonstrate that the necessary public facilities and services are available. To ensure the availability of facilities and services to proposed developments, it is necessary that developments which have reserved capacity proceed in the prescribed time. Systematic monitoring and subsequent review of approved development orders will help implement the goals within the comprehensive plan by:

...

- e. Ensuring that development orders are timely performed and complied with at all times.

- f. Ensuring that outstanding debts due to the County are paid in a timely manner.

2. To protect the public welfare, it is the intent of the Board of County Commissioners to ensure compliance with the conditions of development orders and with specific time requirements for the completion of activities associated with said approvals or with this Code. The Board of County Commissioners recognizes that unforeseen factors may interfere with the established schedule. This section creates an administrative program to monitor and provide extensions for activities which must be completed within a certain time period pursuant to a development order or pursuant to this Code-, and ensure that conditions are met and not violated.

• • •

B. Applicability.

1. This section shall apply to:

• • •

- b. All development orders identified in Table 5.8-1 with conditions of approval.

2. The following are exempt from this section:

...

- d. For development orders which are subject to the requirements of this section, the time limitations shall apply to those

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- 1 approved both prior to and subsequent to the effective date
2 of this amendment.
- 3 C. Procedures.
- 4 1. ~~Suspension of development orders. Suspension of development~~
5 ~~orders upon failure to comply with time requirement or~~
6 ~~failure to comply with condition of development approval.~~
- 7 a. Upon expiration of any time period established by this Code
8 or for any failure to comply with, or continued violation
9 of, a condition of development approval, no new development
10 orders affecting the property shall be issued by Palm Beach
11 County, and no action which might tend to vest the
12 development order shall be permitted, except as permitted by
13 Sec. 5.8.C.1.e., until a final determination is made by the
14 executive director, or designee, or Board of County
15 Commissioners or Zoning Commission pursuant to subsections
16 5.8.C.2. and 5.8.C.5. herein. ~~There will be no suspension of~~
17 ~~development rights if the only recommendation in the status~~
18 ~~report to the Board of County Commissioners is to delete a~~
19 ~~condition of approval.~~ This suspension of development rights
20 shall not preclude the property owner from filing a new
21 petition for the subject property to amend or supersede an
22 existing development order, or the Board of County
23 Commissioners or Zoning Commission from approving this
24 petition.
- 25 b. This suspension of development rights shall have the
26 following effect on new petitions and code enforcement
27 actions:
- 28 (1) If the property owner files a new petition, no new
29 development orders shall be issued until the completion of
30 the zoning process except the development order which
31 approves the petition.
- 32 (2) If the Board of County Commissioners directs staff to cite
33 the property owner for violating the provisions of the
34 development order Code, no new development orders shall be
35 issued until the alleged violation has been ruled upon by
36 the code enforcement board, and any enforcement action is
37 completed, or penalty is satisfied. This shall not, however
38 preclude compliance with the specific condition cited in the
39 status report after the Board of County Commissioners or
40 Zoning Commission has directed the Code Enforcement Division
41 to cite the property owner for noncompliance with that
42 condition.
- 43 c. Upon the expiration of any time period except for a time
44 period to comply with a condition of approval imposed by the
45 Development Review Committee or upon reasonable cause to
46 believe that a condition of development approval has been
47 violated, a document shall be filed with the clerk of the
48 circuit court to be placed with the records governing title
49 to the affected property except as provided in subsection
50 5.8.C.1.ga. herein. This document may apply only to that
51 portion of the property related to the expired time period,
52 or any condition violated. The document shall give record
53 notice that:
- 54 ...
- 55 (3) Until the review is completed, no new development orders
56 shall be issued by Palm Beach County; and no action which

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1 might tend to vest the development order shall be permitted
2 and,

3 ...

4 d. If the Board of County Commissioners, Zoning Commission, or
5 the executive director approves further development pursuant
6 to subsection 5.8.C.2. or 5.8.C.5., herein, a second
7 document shall be filed with the clerk of the circuit court
8 to be placed with the records governing title to the
9 property indicating:

10 (1) That the rights to develop have been restored; and,
11 (2) Such other information as may be reasonable and necessary to
12 afford adequate record notice of the effect of this section
13 on the rights of property owners.

14 This document shall only be recorded upon payment of all
15 status report fees as established from time-to-time by the
16 Board of County Commissioners-, and upon payment of any
17 outstanding liens or debts owed on the subject property to
18 Palm Beach County. The status report fee may be waived if:
19 (1) the property owner is a government agency; or (2) the
20 property owner is prevented from complying by a government-
21 caused delay or by litigation that would prevent action by
22 the property owner to bring the approval into compliance.

23 (a) In the event litigation contesting the validity of lien
24 or fine is initiated or pending prior to the time this
25 payment is due, the document shall be recorded and
26 payment of the lien or fine, if upheld by the court,
27 shall be deferred until 35 days after Final Order. If
28 the lien or fine is upheld by the court by the fine is
29 not paid on or before the 35th day, a new notice of
30 intent to withhold development permits shall be filed.

31 e. There will be no suspension of development rights if the
32 only recommendation in the status report to the Board of
33 County Commissioners or Zoning Commission is to delete a
34 condition of approval.

35 2. **Administrative extension of time.**

36 ...

37 c. In reviewing applications for administrative time extensions
38 for requirements other than conditions of approval, the
39 executive director or designee shall approve a time
40 extension provided there are no current Code violations or
41 outstanding liens or fines and if the development order is:

42 ...

43 3. **Appeal.** An appeal of a denial of an administrative time
44 extension may be made to the Board of County Commissioners
45 for development orders approved by the Board of County
46 Commissioners or Zoning Commission, and to the Development
47 Review Appeals Board for conditions imposed by the
48 Development Review Committee. An appeal shall be made upon
49 forms prescribed by the department within thirty (30) days
50 of the mailing of the notice that the request for an
51 administrative extension has been denied. The appeal shall
52 be set on the ~~zoning authority~~ Board of County
53 Commissioners' or Development Review Appeals Board agenda

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1 within sixty (60) days of receipt by the department. The
2 Board of County Commissioners or Development Review Appeals
3 Board shall either affirm the decision of the department or
4 grant an extension of time. This decision shall be made
5 within sixty-five days of the date the appeal first appears
6 on an agenda of the Board of County Commissioners or
7 Development Review Appeals Board unless a longer
8 postponement is requested by the property owner. An
9 extension of time may be granted only upon a finding by the
10 Board of County Commissioners or Development Review Appeals
11 Board that the requirements of subsection 5.8.C.2.c. or
12 5.8.C.2.d., as appropriate, have been satisfied.

13 **4. Failure to comply with conditions or time requirements.**

14 a. In the event that a property owner fails to comply with any
15 time requirement and has not received a time extension or a
16 property owner violates a condition of approval, staff shall
17 advertise a status report public hearing for the agenda of
18 the Board of County Commissioners or Zoning Commission. The
19 hearing shall be held within ninety (90) days of the filing
20 of the notice required by subsection 5.8.C.1.a. herein.
21 Unless the property owner utilizes the provisions of
22 subsection 5.8.C.4.a.1 below. Staff may delay the scheduling
23 of the status report public hearing if, prior to the most
24 recent deadline for compliance:

25 (1) The property owner files for an amended or new development
26 order which may affect the time requirement or any condition
27 being violated. If the new petition is approved and the time
28 requirement has not been affected, or if the petition is
29 denied, staff will place the status report on a Board of
30 County Commissioners' or Zoning Commissions' agenda within
31 sixty-five ~~sixty~~ (65~~60~~) days; or
32 (2) Staff is notified by the property owner that there is a
33 deadline to commence development or record a plat, and that
34 either a complete building permit application has been
35 submitted, or technical compliance for a plat has been
36 received, as appropriate, and development will commence, or
37 the plat will be recorded, within ninety (90) days of the
38 deadline. The suspension of development orders as required
39 by subsection 5.8.C.1. will only occur if development has
40 not commenced, or a plat has not been recorded within the
41 ninety (90) day time period. This subsection shall also
42 apply to those development orders which are not eligible for
43 time extensions.

44 b. The status report shall contain a description of the
45 development order, a summary of the background and current
46 status of the development, including any documentation
47 provided to staff of efforts to comply with the requirement,
48 or circumstances beyond the control and cause of the
49 property owner, other than economic conditions, which have
50 prevented compliance; a description of any outstanding liens
51 or fines; a description of any Code violations; a
52 description of any uncompleted conditions or time certain
53 requirements; a review of criteria set forth in subsection
54 5.8.C.2.d for status reports prepared for failure to comply
55 with a condition of approval, a description of any violation
56 of a condition of approval and circumstances related to the
57 violation; as well as a determination of whether the
58 development order:

59 (1) Is consistent with the Palm Beach County Comprehensive Plan;

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1 (2) Is consistent with the Unified Land Development Code; and
2 (3) Complies with the Countywide Traffic Performance Standard.

3 Based on the above ~~these~~ factors, staff shall make a
4 recommendation for one (1) or more of the actions identified
5 in subsection 5.8.C.5.b. herein.

6 ~~e. An administrative status report fee shall be established by~~
7 ~~the Board of County Commissioners in order to provide for~~
8 ~~this process.~~

9 ~~c.d.~~ Consideration of all actions, except a rezoning, permitted
10 by Sec. 5.8.C.5.b., shall occur in the following manner:
11 ...

12 ~~d.e.~~ Consideration of all rezonings on properties less than ten
13 (10) contiguous acres, by the Board of County Commissioners,
14 shall occur in the following manner:
15 ...

16 ~~e.f.~~ Prior to consideration of all rezoning on properties of ten
17 (10) or more contiguous acres by the Board of County
18 Commissioners, notice to the owner of record and
19 advertisement of the proceedings shall occur in the
20 following manner:
21 ...

22 5. Decision by the Board of County Commissioners or Zoning
23 Commission.
24 ...

25 b. After deliberation, the Board of County Commissioners or
26 Zoning Commission shall take one (1) or more of the
27 following actions provided the action complies with Sec.
28 5.1.O. (Outstanding liens or fines):
29 ...

30 (6) Grant a time extension;
31 (a) To commence development or record a plat for a period not to
32 exceed twenty-four (24) months during which time the
33 property owner shall comply with the time requirement. The
34 term of the time extension shall commence upon the
35 expiration of the date to complete the time certain
36 activity, or the expiration of the last extension, whichever
37 is applicable. When the board approves an extension of time
38 for the payments of fees, the amount due shall increase by
39 an interest payment equal to twelve (12) percent a year. If
40 the extension covers a period less than a year, the interest
41 shall be prorated.
42 (b) To comply with a condition of approval:
43 i) Posting of surety for a conditional certificate of
44 concurrency....
45 ii) All other conditions of approval....
46 (9) Deny or revoke a building permit; issue a stop work order;
47 deny a Certificate of Occupancy on any building or
48 structure; revoke any concurrency reservation, concurrency
49 exemption, or adequate public facilities determination; deny
50 or revoke any permit or approval for any developer-owner,
51 commercial-owner, lessee, or user of the subject property.

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TABLE 5.8-1

TIME LIMITATIONS OF DEVELOPMENT ORDER FOR EACH PHASE					
TYPE OF DEVELOPMENT ORDER	MAXIMUM NUMBER OF PHASES	NEXT REQUIRED ACTION OR DEVELOPMENT ORDER	MAXIMUM TIME TO RECEIVE DEVELOPMENT PERMIT OR COMMENCE DEVELOPMENT	MAXIMUM LENGTH OF ADMINISTRATIVE TIME EXTENSION ⁴	ACTION UPON FAILURE TO COMPLY WITH TIME REQUIREMENT WITHOUT AN APPROVED TIME EXTENSION
REZONING	2	Commence development ¹	three (3) years ²	twelve (12) months	BCC review pursuant to subsections C.1 and C.5 herein
CONDITIONAL USES CLASS "A" AND CLASS "B"	2 ⁵	Commence development or use Conditional Use if no construction is required ¹	three (3) years ¹	twelve (12) months	Pursuant to subsections C.4 and C.5 herein: Class A - BCC review; Class B - Zoning Commission review
PLANNED DEVELOPMENT DISTRICT: NON PLANNED UNIT DEVELOPMENT	4	Commence development ¹	three (3) years ²	twelve (12) months	BCC review pursuant to subsections C.4 and C.5 herein
PLANNED DEVELOPMENT DISTRICT: PLANNED UNIT DEVELOPMENT	no maximum	Record plat	three (3) years ²	no extensions permitted	BCC review pursuant to subsections C.4 and C.5 herein
DEVELOPMENT ORDERS WHICH AT THE TIME OF CERTIFICATION ARE NOT ASSOCIATED WITH ANY OTHER DEVELOPMENT ORDER WHICH IS SUBJECT TO THE REQUIREMENTS OF SECTION 5.8 (THOSE LISTED ABOVE):	SITE PLAN	2	Commence development ¹	four (4) years ¹	no extensions permitted Plan null and void for the undeveloped phases of a site plan, and unplatted phases of a subdivision plan.
	FINAL SUBDIVISION PLAN: NON-RESIDENTIAL	2	Commence development ¹	four (4) years ¹	
	FINAL SUBDIVISION PLAN: RESIDENTIAL	no maximum	Record plat	three (3) years ²	

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September 16~~2~~91996

- 1 ¹ Commencement of development shall consist of:
- 2 a. Receipt of a building permit and first inspection approval for a) the entire development, or b) all of the
- 3 next phase if phasing is provided by the development order and final Master Plan pursuant to subsection
- 4 5.8.D.3.b herein; or
- 5 b. The initiation of significant site improvements such that the improvements would only permit the
- 6 development of the approved project, and any other pattern of development would require extensive
- 7 changes to the installed improvements.
- 8 Commencement of development shall not consist of:
- 9 a. The dividing of land into parcels, unless the determination of commencement is to be made for property
- 10 with straight residential zoning and this division is accomplished through the recordation of a plat or plat
- 11 waiver; or
- 12 b. Demolition of a structure; or
- 13 c. Deposit of refuse, solid or liquid waste, or fill on the parcel unless the development order is exclusively
- 14 and specifically for such; or
- 15 d. Clearing of land.
- 16 1. From resolution adoption date for first phase, and from date of commencement of development of last phase,
- 17 or last plat recordation date, for subsequent phases. The maximum time to commence development for each
- 18 phase of a Type III excavation shall be established by a condition of approval.
- 19 ³ From plan certification date for first phase, and from date of commencement of development of last phase,
- 20 or last plat recordation date, for subsequent phases.
- 21 ⁴ All administrative time extensions listed in this table are to be approved or denied by the Executive Director
- 22 of the Planning, Zoning and Building Department.
- 23 ⁵ The maximum number of phases for a Type III excavation shall be established by a condition of approval.
- 24 **Subpart** Section 6.2.D.5., District Purposes and Uses, Urban
- 25 Residential Districts, RTU, Residential Transitional
- 26 Urban District is amended to add and delete language as
- 27 follows:
- 28 **5. RTU, Residential Transitional Urban District.** The purpose and
- 29 intent of the RTU district is to provide areas for single-
- 30 family dwelling units at a moderate density. The RTU district
- 31 corresponds to the Medium Residential 5 (MR5) land use
- 32 designation in the Future Land Use Element of the
- 33 Comprehensive Plan. The following uses are subject to the
- 34 Supplementary use standards referenced below.
- 35 ...
- 36 **CONDITIONAL USE, CLASS A:**
- 37 Agriculture, bona fide
- 38 Air curtain incinerator, temporary
- 39 Cemetery
- 40 Church or place of worship
- 41 Communication tower, commercial
- 42 Day care center, general
- 43 Day care center, limited
- 44 Electrical power facility
- 45 Equestrian arena, commercial
- 46 Golf course
- 47 Government services

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1 Grooms quarters
2 Groves/row crops
3 Kennel, private
4 Livestock raising
5 Nursery, retail
6 Nursing or convalescent facility
7 Packing plant
8 Park, public
9 School, elementary or secondary
10 Solid waste transfer station
11 Stable, commercial
12 Townhouse, ~~zero lot line home~~
13 Water or wastewater treatment plant
14 Zero Lot Line home

15 Subpart Section 6.2.H., District Purposes, Overlay districts is
16 amended to add and delete language as follows:

17 H. Overlay districts and Special Zones.

18 ...

19 8. Airport Zoning. The purpose and intent of the Airport zoning
20 regulations is to promote the maximum safety of aircraft
21 using publicly-owned airports, the safety of residents and
22 property in areas surrounding the Airports, and the full
23 utility of the airports. The provisions of Airport zoning
24 regulations create zones, based on the approach and departure
25 pattern of aircraft, and regulates the height of structures
26 and the use of land within these zones. The Airport zoning
27 regulations are contained in Article 18 of this code.

28 Subpart Section 6.4.A., Use Regulations and Definitions, General
29 is amended to add and delete language as follows:

30 A. General.

- 31 1. Uses permitted by right, subject to Site Plan/Final
32 Subdivision Plan approval by DRC, as a Special Use or as a
33 Conditional Use in each district shall be determined from
34 the Use Regulations Schedule (Table 6.4-1).
- 35 2. The Use regulations within overlay districts shall be
36 determined by the uses allowed in the underlying base
37 districts, as may be modified by Sec. 6.7 (Overlay District).
- 38 3. Additional use regulations for the Planned Development
39 districts are specified in Sec. 6.8 (Planned Development
40 District Regulations).
- 41 4. Uses within Airport zones may be restricted or subject to
42 special regulations as specified in Article 18 (Airport
43 Zoning Regulations).

44 Subpart Section 6.4.C., Use Regulations and Definitions, Use
45 regulations schedule is amended to add language and
46 renumber sections as follows:

47 C. Use regulations schedule.

48 ...

49 9. Airport Zones. Certain uses within an airport zone,
50 established in Article 18, are subject to additional height

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and use limitations and may be subject to special conditions.

1. 10. District Specific Regulations....

Subpart Section 6.4.C., Table 6.4-1 Use Regulations Schedule is amended to add and delete language as follows:

**TABLE 6.4-1
USE REGULATIONS SCHEDULE**

Use Type	Zoning District																				NOTE				
	Agriculture/Conservation					Residential										Commercial						Industrial/Public			
	P C	A G R	A P A	S A	R S E R	AR		C R S	R E	R T	R T S	R T U	R S	R M	R H	C N	C L O	C C	C H O	C G		C R E	I L	I G	P O
						R U R A L	U S A																		
Residential uses																									
Single-family		P				P	P	P	P	P	P	P	P	P	P										88
Zero lot line home													A	D	D	D									103
Townhouse													A	D	D	D									95
Multi-family															P	P									65
Mobile home dwelling						S	S																		62
Accessory dwelling		S	S	S		S	S	S	S	S	S	S	S	S	S										1
Congregate living facility, Type 1						P	P	P	P	P	P	P	P	P	P										24
Congregate living facility, Type 2					D	A	A	A					A	B	B	B									24
Congregate living facility, Type 3													A	A	A	A	A	A	B						2
Estate kitchen		P	P	P		P	P	P	P	P	P	P	P	P	P										34
Farm residence		P	P	P																					36
Farm tenant quarters		P	P	P																					37
Garage sale		P	P	P		P	P	P	P	P	P	P	P	P	P										44
Grooms quarters		S	S	S	S	S	S	S	S	S	A	A	A	A	A	B	B	D	D	D	P	P	P		4
Guest cottage		P	P	P		P	P	P	P	P	P	P	P	P	P										44
Home occupation		P	P	P		P	P	P	P	P	P	P	P	P	P										4
Migrant farm labor quarters		D	D	D																					
Nursing or convalescent facility					A								A	A	A	A	A	A	B						
Security or caretaker quarters		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	86

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

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TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning Districts																				NOTE					
	Agriculture/Conservation					Residential										Commercial						Industrial/Public				
	P C	A G R	A P	S A	R S E R	AR R U R A L	C R S U S A	C R S	R E	R T	R T S	R T U	R S	R M	R H	C N	C L O	C C	C H O	C G		C R E	I L	I G	P O	
Utilities																										
Air curtain incinerator, permanent		A	A	A																		A	A	A	7	
Air curtain incinerator, temporary		S	S	S	S	S	S	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	S	8	
Chipping and mulching		B	B	A																		B	D	D	20	
Communication tower, commercial	A	B	D	A	B	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	D	D	D	22
Communication panels, building mounted		D	P	D	D	B	B	B	B	B	B	B	B	B	D	D	D	D	D	D	D	P	P	P	22.1	
Composting facility		D	D	B																		D	D	D	23	
Electrical power facility		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	P	31	
Incinerator																									84	
Recycling center																	A		B		D		P	P	P	
Recycling collection station					S												D		S		S		S	S		74
Recycling drop off bin		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	75
Recycling plant																						B	D	B	76	
Sanitary landfill																									84	
Solid waste transfer station		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	B	B	89
Utility, minor		D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	96
Water or wastewater treatment plant		B	B	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	D	D	P	101	

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

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TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning District																				NOTE						
	Agriculture/Conservation					Residential								Commercial					Industrial/Public								
	P C	A G R	A P	S A	R S E R	AR		C R S	R E	R T	R T S	R T U	R S	R M	R H	C N	C L O	C C	C H O	C G		C R E	I L	I G	P O		
						R U R A L	U S A																				
Recreational uses																											
Amusements, temporary or Special events					S	S	S	S									S		S		S	S			10		
Arena, auditorium or stadium						A													A		A	A			D	11	
Campground	D				D	D																D			P	17	
Entertainment, indoor																	A		A		B	D	D			32	
Entertainment, outdoor						A													A		A	D	D			33	
Fitness center																B	B	B	D	P	P	P	P			39	
Golf course						A			A	A	A	A	A	A	A	A			A		B	D	D		B	45	
Gun club, enclosed				D	A	D															B	P	D	P	D	48	
Gun club, open				D	A	A																A			B	48	
Gun range, private			D	D	D		A																			49	
Marine facility																				B	B	B	P	P	P	D	59
Park, passive	P	P	P	P	P	P	D	D	D	D	D	D	D	D	D	D	D	D	P	P	P	P	P	P	P	P	69
Zoo						B	B	A													B	D			P	104	

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TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning District																				NOTE		
	Agriculture/Conservation					Residential								Commercial						Industrial/Public			
	P	A	A	S	R	AR	C	R	R	R	R	R	R	C	C	C	C	C	I	I			
	C	G	P	A	S	R	R	R	R	R	R	R	R	N	C	C	C	C	L	I			
						U																	
						R																	
						A																	
						L																	
Accessory and Temporary uses																							
Type 1A Excavation		P					P	P	P	P	P	P	P	P							35		
Type 1B Excavation		D	D	D	D		D	D	D	D	D	D	D	D							35		
Type II Excavation			D	D	D		D	D	D	D	D	D	D	D	D	D	D	D	D	D	35		
Agricultural Excavation		D	D	D	D		D	D													35		

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TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning Districts																			NOTE						
	Agriculture/Conservation					Residential								Commercial					Industrial/Public							
	P C	A G R	A P	S A	R S E R	AR		C R S	R E	R T	R T S	R T U	R S	R M	R H	C N	C L O	C C	C H O		C G	C R E	I L	I G	P O	
						R U R A L	U S A																			
Industrial uses																										
Asphalt or concrete plant																								D		
Data Information Processing																	D		P	P			P	P		
Grain milling or processing			B	P	P																		P	P		
Heavy industry																							A	D		
Laboratory, industrial research																							B	P		
Machine or welding shop																							P	P	58	
Manufacturing and processing																							P	P		
Mining, Excavation Type IIIA				A	A															A	A		A	A	A	35
Mining, Excavation Type IIIB				A	A															A	A		A	A	A	35
Motion picture production studio																		D	D	A			P	P	64	
Pottery shop, custom																			P				P	P		
Salvage or junk yard																								A		
Warehousing																							P	P	100	
Woodworking or cabinetmaking																			B				P	P		

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USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

Subpart Section 6.4.D.6.e., Use Regulations and Definitions, Supplementary use standards, Agriculture, bona fide, AR district is amended to retitle section and renumber as follows:

- e. **AR district, animals.** In the AR district the following supplementary regulations shall apply.
- ~~(4)~~ (1) **Exotic animals.** Exotic animal (imported, or nonnative animal species) care for commercial breeding purposes shall be on a minimum lot size of five (5) acres. Pens, cages or structures associated with the exotic animal care use shall be setback a minimum of fifty (50) feet of any property line.
- ~~(5)~~ (2) **Game animals.** Game farms or game animal care for private or commercial purposes shall be regulated by the Florida Game and Fresh Water Fish Commission (FGFWC). Minimum lot size for game animal care shall be five (5) acres.

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1 **Subpart** Section 6.4.D.15., Use Regulations and Definitions,
2 Supplementary use standards, Automotive service station
3 is amended to add and delete language as follows:

4 **15. Automotive service station.** ~~means a~~
5 An establishment engaged in the retail sale of gasoline or other
6 motor fuels, which may include accessory activities such as the
7 sale of accessories or supplies, the lubrication of motor
8 vehicles, the minor adjustment or minor repair of motor vehicles,
9 ~~or the sale of convenience food items, or a speciality~~
10 ~~restaurant. An automotive service station use shall comply with~~
11 ~~the following supplementary use standards:~~

12 **a. Location criteria.** Automotive service stations and related
13 uses and facilities with gasoline sales create intensities
14 which may permanently and substantially alter the character
15 of an area. Prior to approving a conditional use for an
16 automotive service station or other facility with gasoline
17 pumps, the Board of County Commissioners shall make a finding
18 that the use is appropriately located. In making the
19 determination that the use is appropriately located, the
20 Board of County Commissioners shall consider the following
21 guidelines: ~~in their review.~~

22 (1) **Movement.** Proper functioning of the site as related to
23 vehicle stacking, circulation and turning movements;
24 (2) **Buffering.** Adequate buffering from residential areas;
25 ~~(3) Intersection criteria. Application of the Major~~
26 ~~Intersection Criteria as defined in Art.~~
27 ~~(3)-(4) Access.~~ Provision of adequate access, ingress and egress;
28 ~~(4)-(5) Vicinity.~~ Number of other fueling stations in the
29 vicinity to safeguard against potential harm from
30 explosion.

31 **b. Additional Locational restrictions.**
32 (1) ~~In the IL and IG Districts; Accessory uses.~~ In the IL and
33 IG Districts, gasoline sales shall be accessory to vehicle
34 repair activities, and convenience store sales area shall
35 be limited to a maximum of five hundred (500) square feet.
36 (2) CC and CG District accessory uses. Speciality restaurants
37 may be permitted as an accessory use to an automotive
38 service station subject to DRC approval pursuant to Sec.
39 5.6. At a minimum, the application shall comply with the
40 following development standards:
41 (a) Size. The accessory restaurant shall not exceed thirty
42 percent (30%) of the gross floor area of the primary use;
43 (b) Parking. Adequate parking shall be provided on site.
44 Parking for uses shall be calculated separately to
45 determine the total amount of required parking. The gas
46 pump stacking lanes shall not be counted toward the minimum
47 parking requirements of the restaurant use;
48 (c) Concurrency. A certificate of concurrency shall be required
49 for the restaurant use;
50 (d) On-site circulation. On-site circulation and maneuvering
51 area shall be adequate to accommodate all uses at any given
52 time;
53 (e) Drive-thru service. Drive-thru service shall require
54 approval as a Class A Conditional Use for fast food
55 restaurants pursuant to Sec. 6.4.D.

56 **c. Standards.**
57 ~~b-~~ (1) **Enclosed repair activities.** All accessory repair
58 activities shall be conducted within an enclosed
59 structure. No outside storage of disassembled vehicles,
60 or parts thereof, shall be permitted on site.

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- 1 e- (2) No vehicle testing on residential streets. Vehicles
2 shall not be tested off-site on residential streets.
3 d- (3) Water recycling. Any accessory automatic car wash
4 facility shall utilize a water recycling system.
5 e- (4) Loudspeakers. No outdoor speaker or public address
6 systems which are audible off-site shall be permitted.
7 f- ~~In the IL and IG Districts. In the IL and IG Districts,~~
8 ~~gasoline sales shall be accessory to vehicle repair~~
9 ~~activities, and convenience store sales area shall be limited~~
10 ~~to five hundred (500) square feet.~~

11 Subpart Section 6.4.D.21., Use Regulations and Definitions,
12 Supplementary use standards, Church or place of worship
13 is amended to add, delete and reformat language as
14 follows:

15 21. Church or place of worship, means a
16 A premises or site used primarily or exclusively for religious
17 worship and related religious services or established place of
18 worship, retreat site, camp, convent, seminary or similar
19 facilities owned or operated by a tax exempt religious group for
20 religious activities. ~~A church or place of worship shall comply~~
21 ~~with the following supplementary use standards.~~

22 a.d- Location.

- 23 (1) Rectory. All places of worship which include a rectory,
24 shall front on a collector or arterial street.
25 (2) Accessory Facilities. All places of worship which include a
26 day care, school, academy, congregate living facility,
27 cemetery, community center or other similar accessory
28 facilities shall front on an arterial or collector street.
29 ~~and i- In no case shall places of worship with accessory~~
30 ~~facilities be located on local residential or local~~
31 ~~streets.~~

32 b. Use limitations.

- 33 (1) 1,500 Square Foot Facility. ~~In the CN, CC and CG districts~~
34 ~~A a church or place of worship not exceeding one thousand~~
35 ~~five hundred (1,500) square feet of gross floor area shall~~
36 ~~be a permitted use, subject to site plan certification~~
37 ~~approved by the DRC and pursuant to Sec. 5.6 (Site~~
38 ~~Plan/Final Subdivision Plan) in the following districts:~~

39 (a) ~~b In the CN, CC and CG districts.~~

40 (b) ~~e PUD A commercial pod in a Planned Development Districts~~
41 ~~(PDD).~~

42 (i) ~~A church or place of worship shall be a permitted use in a~~
43 ~~commercial pod of a PDD.~~

44 (2) ~~e PUD Special Exceptions.~~ A church or place of worship shall
45 ~~be allowed may be permitted as a requested use in~~
46 ~~residential areas of existing PUD Special Exceptions as a~~
47 ~~requested use approved prior to June 16, 1992.~~

48 (3) ~~(5) Accessory Residential Development.~~ Institutional land use
49 ~~plan classification.~~ In the Institutional land use plan
50 ~~classification, accessory affordable housing shall be~~
51 ~~permitted as an accessory use to a church or place of~~
52 ~~worship subject to Class "A" conditional use. Such use~~
53 ~~shall be requested only by a nonprofit organization or~~
54 ~~community based group. This type of residential~~
55 ~~development would shall be under the direct supervision~~
56 ~~of a sponsoring nonprofit organization or community based~~
57 ~~group. Such housing shall be provided at below market~~
58 ~~rental and not for resale.~~

59 (4) ~~a- Temporary sales.~~ Temporary sales events, such as rummage
60 or bake sales, shall be ~~allowed permitted~~ as an accessory
61 use, subject to the Temporary Retail Sales standards of

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Ord 96-28
eff 9-25-96

- 1 Sec. 6.4.D and Sec. 5.5 (Special Use Permits).
- 2 **Subpart** Section 6.4.D.22., Use Regulations and Definitions,
3 Supplementary use standards, Communication tower is
4 amended to add and delete as follows:
- 5 **6.4.D.22. Communication tower, commercial** means AM/FM radio,
6 television, microwave and cellular telephone
7 transmission towers, antennas and accessory equipment
8 and buildings. A commercial communication tower use
9 shall comply with the following supplementary use
10 standards. ~~Upon a declaration by the BCC that a~~ If
11 ~~this section requirement of this code prohibits a~~
12 ~~government owned tower from being located and that the~~
13 ~~at a specific location site and the tower is required~~
14 ~~in order to protect the public welfare or safety, the~~
15 ~~applicable criteria of this section may be amended~~
16 ~~waived or modified by the BCC. In such cases the BCC~~
17 ~~shall make a finding of fact indicating the~~
18 ~~justification for the modification.~~
- 19 **a. Review Process.**
- 20 **(1)a All Communication Towers All Districts. All** ~~C~~
21 ~~communication towers shall require approval as a over two~~
22 ~~hundred fifty (250) feet in height shall be approved as~~
23 ~~Conditional Use Class "A", except as provided in~~
24 ~~subsections (1)(a),(b) and (2)below.~~
25 **(a) IL, IG, AP and PO Districts. Towers less than two hundred**
26 ~~fifty (250) feet in height shall be permitted subject to~~
27 ~~DRC approval.~~
28 **(b) PIPD District. Towers less than two hundred fifty (250)**
29 ~~feet in height shall be permitted by right with a~~
30 ~~building permit.~~
- 31 **(2)b Monopole Towers.**
- 32 **(a) In CG, and CLO CHO and MUPD Districts.** Monopole towers
33 not exceeding one hundred fifty (150) feet in height ~~in~~
34 ~~the CG and CHO Zoning Districts shall be approved subject~~
35 ~~to DRC approval.~~
36 A maximum of one (1) tower shall be permitted within an
37 MUPD or development site.
- 38
- 39 **(b) CN and CLO Districts.** Monopole towers not exceeding one
40 hundred fifty (150) feet in height ~~in the CN Neighborhood~~
41 ~~Commercial and CLO Commercial Low Intensity Office Zoning~~
42 ~~Districts shall be approved as Conditional Use Class~~
43 ~~"B."~~

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TABLE 6.4-4
SUPPLEMENTAL COMMUNICATION TOWER SETBACKS

ZONING DISTRICTS	SELF SUPPORT TOWERS	MONOPOLE TOWERS	GUYED TOWERS	GUY ANCHORS AND SUPPORTS
AR-Residential	100' or 20% of height ¹	100' or 20% of height ¹	100' or 20% of height ²	20'
Other Residential	50' or 20% of height ¹	50' or 20% of height ¹	50' or 20% of height ²	20'
Commercial	20% of height	Dist. or 20% of height ³	20% of height ⁴	5'
Industrial	Dist. or 20% of height ³	Dist. or 20% of height ³	Dist. or 20% of height ³	5'
From Right-Of-Way ⁵	50'	50' ⁶	50'	50' ⁶

TABLE 6.4-4
SUPPLEMENTAL COMMUNICATION TOWER SETBACKS

ZONING DISTRICTS	AR-Residential	Other Residential & PO	Commercial (Including MUPDs)	Industrial (Including PIPDs)	Agriculture/Conservation	From Right-Of-Way ¹
Tower Setbacks	100' or 20% of height ^{2,3}	50' or 20% of height ²	Dist. or 20% of height ^{2,3,4}	Dist. or 20% of height ¹	Dist. or 20% of height ¹	50'
Guy Anchors & Supports	20'	20'	5'	5'	5'	50' ¹

TABLE 6.4-4 NOTES:

1. Whichever is greater.
2. Guyed and self supporting towers. Whichever is greater, provided that 100% break point calculations are met.
3. Monopole towers in commercial, and all towers in industrial & agriculture/conservation. District setbacks apply to towers not exceeding 150 feet.
4. ~~Provided 100% break point calculations.~~
- 4.5 Monopole towers and guy anchors & supports. Setbacks from ~~existing or planned~~ street rights-of-way may be lowered to 20' provided a "Jersey barrier" or a similar barrier, based ~~on upon~~ probably probable area of impact attack, is installed.
5. Setbacks from ~~existing or planned~~ street rights-of-way apply if greater than district setbacks.

b. Standards.

- (1) Additional uses permitted on lot. Communication towers may be located on lots containing another principal use and may occupy a leased parcel on a lot meeting the

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1 minimum lot size requirement of the district in which it
2 is located. The County shall require execution of a unity
3 of title and may require separation between communication
4 towers and other uses on the lot to assure compatibility.
5 ~~Communication towers may occupy a leased portion of a~~
6 ~~valid lot.~~

7 **(2)e Setbacks.** ~~The principal support structures of~~
8 ~~communication towers shall conform to the minimum setback~~
9 ~~standards of the district in which the use is located.~~
10 ~~However, the supplemental setback standards in Table~~
11 ~~6.4-4 shall apply to all communication towers unless~~
12 ~~otherwise specified in this section if greater than the~~
13 ~~minimum setback standards of the district.~~

14 **(a)e-2 Setbacks.** All Communication towers shall be setback a
15 minimum of one hundred (100) feet from any property line
16 adjacent to a residential district including AR zoned
17 parcels. This requirement supersedes the setbacks
18 indicated in Table 6.4-4 if adjacent to residential.

19 **(b)c-1 Certification Guyed Towers.** Guyed communication towers
20 shall be located on the site so as to provide a minimum
21 distance equal to one hundred (100) percent of the height
22 of the communication tower from all property lines or the
23 applicant shall submit break point calculations certified
24 by a registered engineer in the State of Florida, who
25 shall submit calculations substantiating the position of
26 the one-hundred-percent break point, or the guyed tower
27 shall be. However, even with the submission of break
28 point calculations, the setback requirements of Table
29 6.4-4 still apply, if greater than those required with
30 the breakpoint calculations.

31 **(c)d Anchorage location.** ~~Except as specified in Table 6.4-4,~~
32 ~~communication tower peripheral supports and guy anchors~~
33 ~~may be located within required setbacks provided they~~
34 ~~shall be located entirely within the boundaries of the~~
35 ~~property on which the communication tower is located, and~~
36 ~~comply with the requirements of Table 6.4-4.~~

37 **(d)e Location of accessory structures.** All structures
38 accessory to communication towers, other than peripheral
39 supports and guy anchors, shall conform to the setback
40 standards for the district in which the use is located.

41 **(3)f Fencing.** A fence or wall not less than eight (8) feet in
42 height from finished grade shall be constructed around
43 each communication tower and around each guy anchor, if
44 used. Access to the communication tower shall be through
45 a locked gate. Barbed wire shall be used along the top of
46 the fence or wall if it is necessary to preclude
47 unauthorized access to the tower.

48 **(4)h Landscaping and buffering.** ~~The following landscape ing~~
49 ~~and buffering standards provided below in this subsection~~
50 ~~of communication towers shall be required around the~~
51 ~~perimeter of the tower and any accessory structures,~~
52 ~~including guy anchors unless exempted below, except that~~
53 ~~the These standards shall be waived when the proposed~~
54 ~~landscaping would not be visible from adjacent lots or~~
55 ~~rights-of-way. Landscaping shall be installed on the~~
56 ~~outside of fences, unless the Zoning Director determines~~
57 ~~that the Landscaping may be installed on the inside of~~
58 ~~fences upon approval by the Zoning Director, where~~
59 ~~viability, survivability or utility of landscaping on the~~
60 ~~exterior is at question better served on the interior of~~
61 ~~the fence.~~

62 **(1)(a) Adjacent to residential uses or residential districts.** An
63 Alternative Landscape Strip Number 4, as described in
64 Sec. 7.3.E.3.b (Compatibility landscape buffer strips)

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1 shall be required between communication towers and
2 adjacent lots with existing residential uses, zoning or
3 residential future land use plan designations.
4 ~~(2)-(b)~~ **Not adjacent to residential.** In all other instances,
5 communication towers shall comply with the compatibility
6 landscape buffer standards of Sec. 7.3.E.3.b
7 (Compatibility landscape buffer strips).
8 ~~(5)-(g)~~ **High voltage signs.** If high voltage is necessary for the
9 operation of the communication tower and it is present in
10 a ground grid or in the tower, signs located every twenty
11 (20) feet and attached to the fence or wall shall display
12 in large bold letters the following: "HIGH
13 VOLTAGE-DANGER".
14 ~~(6)-m~~ **Removal of obsolete facilities Agreement.** All obsolete
15 and unused communication towers shall be removed within
16 twelve (12) months of cessation of use. The applicant
17 shall submit an executed removal agreement to ensure
18 compliance with this requirement.

19 **c. Additional Requirements.**

20
21 ~~(1)-i~~ **Radiation standards.** Communication towers shall comply
22 with ~~current~~ Federal Communications Commission standards
23 for non-ionizing electromagnetic radiation (NIER). ~~The~~
24 ~~applicant shall submit engineering documentation to~~
25 ~~verify that the proposed site plan ensures compliance~~
26 ~~with these standards. If a NIER evaluation is required as~~
27 ~~a result of co location, it shall be paid for by tower~~
28 ~~space lessee. It may be necessary to hire a consultant,~~
29 ~~retained on an as needed basis by the County and paid for~~
30 ~~with permit fees, to evaluate NIER documentation.~~
31 ~~(2)-j~~ **Aircraft hazard.** Communication towers shall not encroach
32 into or through any established public or private airport
33 approach path as established by the Federal Aviation
34 Administration (FAA). To verify compliance with FAA
35 requirements, the applicant shall ~~complete one of the~~
36 ~~following two processes:~~ comply with the Tall Structure
37 Review provisions contained in Article 18.
38 ~~(1)-~~ **FAA review.** Prior to site plan certification, the
39 applicant shall ~~provide documentation that the proposed~~
40 ~~communication tower has been reviewed and is not~~
41 ~~determined to be a hazard by the FAA. This documentation~~
42 ~~shall be reviewed by the Palm Beach County Department of~~
43 ~~Airports (PBCDOA) before site plan certification. The~~
44 ~~PBCDOA shall review the communication tower application~~
45 ~~to determine if it is a hazard to any FAA established~~
46 ~~flight paths. The PBCDOA shall object within ten (10)~~
47 ~~working days of receiving the FAA notice of no hazard and~~
48 ~~a copy of the communication tower application submitted~~
49 ~~to the Zoning Division, or~~
50 ~~(2)-~~ **Application to FAA.** The applicant shall submit as part of
51 the application for communication tower approval, (a) a
52 copy of the application to the FAA for a favorable
53 determination that the proposed tower is no hazard to air
54 navigation, and (b) a copy of a report, created by a
55 reputable aviation consultant, that indicates the proposed
56 communication tower does not encroach into any established
57 flight paths and that the FAA should issue a favorable
58 determination of no hazard to air navigation for the
59 proposed tower. The Zoning Division shall forward copies of
60 this material to the PBCDOA.

61
62 Prior to building permit application, the applicant shall
63 provide documentation that the proposed communication tower has

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1 ~~been reviewed and is not determined to be a hazard by the FAA.~~
2 ~~This documentation shall be reviewed by the PBCDOA. The PBCDOA~~
3 ~~shall determine if the tower encroaches any FAA established~~
4 ~~flight paths. The PBCDOA shall review the communication tower~~
5 ~~application and object within ten (10) working days of~~
6 ~~receiving the FAA notice of no hazard to air navigation. The~~
7 ~~FAA documentation shall be attached to the building permit~~
8 ~~application.~~

9 (3) Replacement of Conforming Towers. An existing conforming
10 tower may be replaced subject to the criteria below. If the
11 criteria is exceeded, the replacement tower shall comply
12 with the review procedures of section 6.4.D.22.
13 (a) the height shall not exceed that of the existing tower;
14 (b) the mass and bulk shall not exceed that of the existing
15 tower;
16 (c) the new tower shall comply with the requirements of this
17 section.
18 (d) No additional antennas, satellite dishes or other equipment
19 shall be permitted.

20 d.* Shared use. This section is designed to foster shared use
21 of communication towers and their accessory support
22 facilities.

23 (1) Setbacks. If it is determined that the proposed tower
24 cannot meet setback requirements due to increases in tower
25 height to accommodate shared use, minimum setback
26 requirements may be reduced ~~to~~ by a minimum ~~maximum~~ of
27 fifteen (15) feet, except from residential property lines.
28 ~~The lessee of tower space shall fund costs of changes in~~
29 ~~tower dimensions.~~

30 (2) Review procedures for Shared use. The procedure is designed
31 to minimize proliferation of communication towers by making
32 all parties aware of sharing opportunities. Prior to
33 submittal of an application for a Conditional Use or
34 Original DRC Use approval certification of an application
35 ~~by the DRG, all applicants for communication towers, except~~
36 ~~monopole towers shall comply with the following procedures:~~

37 (a){1} List....
38 (b){2} Notification....
39 (c){3} Application....
40 (d){4} Shared use application....
41 (e){5} Feasibility....
42 (f){6} Rejection or dispute. If the applicant rejects one or
43 more request(s) and if potential tower lessees dispute
44 the rejection(s) for shared use, the following shall
45 occur within five (5) working days of the response
46 deadline:...

47 (i){a} Submittal....
48 (ii){b} Consultant....
49 (iii){8} Evaluation....
50 (g){7} No consultant Acceptance with no dispute....

51 Subpart Section 6.4.D.22.1, Use Regulations and Definitions,
52 Supplementary use standards, Communication panels,
53 building mounted is created as follows:

54 22.1 Communication panels, building mounted. These standards
55 apply to commercial communication panels attached to
56 buildings. Accessory structures such as antennas or
57 satellite dishes are not included under these provisions.

58 a. Applicability and Review Process. A building permit shall be
59 required for the installation of all communication panels in

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- 1 addition to the following review processes.
- 2 (1) Panels shall not be permitted on structures less than
- 3 twenty-five (25) feet in height.
- 4 (2) Panels attached to all nonresidential structures, except in
- 5 the IL, IG and PO districts, and multi-family structures
- 6 between twenty-five (25) and forty-five (45) feet in
- 7 height shall require DRC approval.
- 8 (3) Panels attached to all nonresidential and multi-family
- 9 structures greater than forty-five (45) feet in height
- 10 shall be a permitted use.
- 11 (4) Panels attached to single family residences in any zoning
- 12 district shall require a Class B Conditional Use.
- 13 b. Standards. All communication panels shall comply with the
- 14 provisions below.
- 15 (1) Architectural Compatibility. Demonstrate architectural
- 16 compatibility (color, texture, etc.) with the structure on
- 17 which it is located.
- 18 (2) Screening. If the panel is attached to a pole support
- 19 structure, the pole shall be screened by a parapet wall.
- 20 (3) Size Limitations. All communication panels mounted on the
- 21 roof, wall, or parapet shall not exceed a maximum height of
- 22 eight (8) feet; maximum depth of four (4) feet; and maximum
- 23 width of four (4) feet.
- 24 (4) Setbacks.
- 25 (a) Unmanned roof mounted accessory shelters shall meet a
- 26 minimum twenty-five (25) foot setback from the edge of the
- 27 roof or meet the screening requirements pursuant to Section
- 28 6.6.C.4.
- 29 (b) There shall be no minimum setback required for wall mounted
- 30 panels.
- 31 c. Supplemental Application Requirements. In addition to the
- 32 requirements indicated above, plans depicting cross
- 33 sections or elevations of the panel attached to the
- 34 building shall be provided at the time of submittal of the
- 35 application package.
- 36 Subpart Section 6.4.D.22.2, Use Regulations and Definitions,
- 37 Supplementary use standards, Community vegetable garden
- 38 is renumbered as follows:
- 39 ~~22.222.1~~ Community vegetable garden.
- 40 Subpart Section 6.4.D.24., Use Regulations and Definitions,
- 41 Supplementary use standards, Table 6.4-5 is amended to
- 42 add language as follows:

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TABLE 6.4-5
Maximum Permissible Occupancy in Type 3
Congregate Living Facilities

Land Use Plan Category (Residential)	Zoning District	Maximum Occupancy (Residents per Acre)	
		In a Standard Zoning District	In a Planned Development
AGR	AGR	PROHIBITED	.24
RR10	RSFR	PROHIBITED	.24
RR10	AR	PROHIBITED	.24
RR20	AR	PROHIBITED	.12
RR10	CRS	PROHIBITED	.24
RR20	CRS	PROHIBITED	.12
LR1	CRS	PROHIBITED	2.4
LR1	RE, RT	PROHIBITED	2.4
LR2	RT, RTS	PROHIBITED	4.8
LR3	RTS	PROHIBITED	7.2
MR5	RS, RTU	PROHIBITED	12
HR8	RS, RM, RH	14.3	19.1
HR12	RM, RH	19.12	28.7
HR18	RM	19.12	28.7
HR18	RH	19.12	28.7

* For the purpose of this section, the required minimum acreage of a Planned Development in Table 6.8-4 shall be reduced by fifty percent (50%).

Subpart Section 6.4.D.35., Use Regulations and Definitions, Supplementary use standards, Excavation is deleted in its entirety and replaced as follows:

35. Excavation. The provisions in this section set forth the required review process and general standards for each excavation type.

a. Type I(A) excavation.

(1) Criteria.

(a) Minimum lot area. The minimum lot area shall be one (1) acre.

(b) Maximum excavated surface area The maximum excavated surface area of all excavated areas shall be less than two tenths (0.2) acre (8,712 square feet).

(c) Off-site removal. No off-site removal of extracted material shall be permitted.

(2) Use approval. Application shall be made concurrent with application for a building permit. Approval shall be issued concurrent with receipt of a building permit for a single family dwelling pursuant to the procedural and site development standards of this section and Sec. 7.6.F.1.

(a) Application requirements and procedures. The building permit drawings shall be supplemented with the information below.

(i) Site Plan A general site plan complying with the standards in Sec. 7.6.F.1.; and

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- 1 (ii) Statement. A statement estimating the amount of
2 excavated material, in cubic yards; and
3 (iii) Notarized Authorization. Notarized authorization
4 from the property owner to excavate.
5 (b) Determination of sufficiency, review and decision. A
6 permit shall be issued by PZ&B, with or without
7 conditions of approval after the application has been
8 determined complete and in compliance with this section
9 and the standards in Sec. 7.6.F.1. and 7.6.H.1. and 2.
10 (c) Reclamation. Prior to issuance of a certificate of
11 occupancy, the property owner shall submit to the
12 Building Division a Certificate Of Compliance in
13 accordance with the requirements of Sec. 7.6.F.1.c.
14 b. Type I (B) excavation.
15
16 (1) Criteria.
17 (a) Minimum Lot area. The minimum lot area shall be 2.5
18 acres.
19 (b) Maximum surface area. The maximum surface area of all
20 excavation on the premises shall be less than twenty
21 five (25%) percent of the gross lot area and shall not
22 exceed two (2.0) acres.
23 (2) Use Approval. Prior to initiating excavation activity
24 use approval shall be required in accordance with the
25 development standards in Sec. 7.6.F.2., procedural
26 requirements defined in this subsection and the
27 supplemental application requirements in Sec.
28 6.4.D.35.g.
29 (a) DRC approval. DRC review and approval shall be required
30 pursuant to Sec. 5.6. DRC shall review for compliance
31 with the standards in Sec. 7.6.F.2 and may approve the
32 application with conditions.
33 (b) Commencement of excavation activity. Once DRC approval
34 has been obtained, authorization to excavate shall be
35 received concurrent with the receipt of a valid building
36 permit for the proposed structure on site. ~~If a building~~
37 ~~permit is not required to establish principal use of the~~
38 ~~property, DRC may authorize commencement of the~~
39 ~~excavation activity as a condition of approval.~~
40 (c) Duration. A Type I (B) excavation permit shall expire
41 after one hundred and twenty (120) days from the date
42 authorization is received to begin excavation activity.
43 (d) Reclamation. Prior to issuance of a certificate of
44 occupancy or as conditioned by DRC, the property owner
45 shall submit to the Building Division, a certificate of
46 compliance in accordance with Sec. 7.6.F.2.c.
47 c. Agricultural excavation.
48 (1) General. All Agricultural and WCAA excavations shall
49 submit a detailed explanation of the proposed bona fide
50 agricultural use. This explanation shall demonstrate
51 consistency with applicable Industry Standards and shall
52 satisfy the definition requirements of bona fide
53 agriculture pursuant to Article 3. Excavation shall be
54 the minimum necessary to implement the bona fide
55 agricultural use.
56 (2) Criteria and review procedures.
57 (a) Excavations two (2) acres or less in surface area.
58 (i) Use approval. DRC review and approval shall be
59 required pursuant to Sec. 5.6. DRC shall review for
60 compliance with the standards in Sec. 7.6.F.3. and
61 may approve the application with conditions.

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- 1 (b) Excavations greater than two (2) acres in surface area
2 Excavation activity shall be subject to the submission,
3 review and approval as a Class A Conditional Use
4 pursuant to Sec. 5.4. and Sec. 7.6.F.3. The Board of
5 County Commissioners may permit offsite removal and may
6 apply the appropriate compatibility criteria in Sec.
7 7.6.F.6.d. to approve, approve with conditions, or deny
8 the application for a Class A Conditional Use.
9
10 (c) Notice of Intent to Construct. Prior to initiating any
11 on-site excavation activities, a Notice of Intent to
12 Construct shall be submitted to and receive approval
13 from ERM in accordance with Sec. 7.6.G.
14
15 d. West County Agricultural Area (WCAA) Excavation.
16
17 (1) Review procedures and standards.
18 (a) Notice of Intent to Construct. Notice of Intent to
19 Construct shall be submitted to and receive approval
20 from ERM in accordance with Sec. 7.6.G. prior to
21 initiating any on-site excavation activities.
22 (b) Standards. Excavation activities shall comply with the
23 standards in Sec. 7.6.F.4.
24
25 e. Type II excavation.
26 (1) Criteria.
27 (a) Location. A Type II excavation may be permitted to
28 implement a site development plan for a primary use as
29 permitted in the Use Regulation Schedule in Section
30 6.4.D., and to implement a Preliminary Development Plan
31 (Master Plan) within any Planned Development District.
32 (b) Limited off-site removal. Type II excavations are
33 allowed to permit earth work associated with land
34 development activities. A minimum of 90% of the fill
35 shall be used on site, unless unusual site conditions
36 exist. If the applicant must remove more than 10% of the
37 fill from the site, then use approval shall be requested
38 as defined in 6.4.D.35.e.(2)(e) below.
39 (2) Use approval.
40 (a) DRC approval. Prior to initiating Type II excavation
41 activities, DRC review and approval shall be required.
42 Application shall be made in accordance with Sec. 5.6
43 and the supplemental application requirements in Sec.
44 6.4.D.35.g below. If approval of a final site
45 development plan is required, application for the Type
46 II excavation shall be submitted simultaneously with the
47 DRC application. DRC shall review for compliance with
48 the standards in Sec. 7.6.F.5. and may approve with
49 conditions.
50 (b) Removal of excess fill from the site. DRC may approve
51 removal of more than 10% of the extracted material from
52 the site if:
53 (i) The applicant demonstrates that the make up of the
54 natural soil contains an excessive amount of silt,
55 rock, or muck and construction of required
56 drainage structures or construction of required
57 structural foundations require removal of an
58 excessive amount of silt, rock or muck; and,
59 (ii) The removal of the material is the minimum
60 necessary to accommodate on-site drainage
61 requirements or structural fill requirements; and,
62 (iii) The impact of hauling the material off-site will
not cause adverse affects to adjacent property
owners or rights-of-way.

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- 1 (c) Notice of Intent to Construct shall be submitted to and
2 receive approval from ERM in accordance with Sec. 7.6.G.
3 prior to initiating any on-site excavation activities.
- 4 (d) Standards. Type II excavation shall comply with the
5 standards in Sec. 7.6.F.5.
- 6 (e) Exception to off-site removal limitation. An excess of
7 ten percent (10%) of the fill may be removed off-site
8 for the following types of excavation activities:
- 9 (i) Excavation associated with the approval of a final
10 development plan. If an excess of 10% of fill is
11 proposed to be removed from a site and no unusual
12 conditions exist justifying removal of more than
13 ten (10) percent of the excavated material, as
14 specified in Sec. 6.4.D.35.e.(2)(b) above, then
15 the excavation shall be considered a Type IIIA
16 mining operation. This exception applies only to
17 sites located within the Urban Service Area or a
18 site in the rural service area which has a valid
19 development order approved prior to (effective
20 date of this ordinance). The applicant shall apply
21 for a Class "A" Conditional Use for a Type III A
22 excavation pursuant to the standards of Sec. 5.4.
23 and shall comply with the following requirements.
- 24 a) Operational and Construction standards in Sec.
25 7.6.H.1 and 7.6.H.2.; and
- 26 b) Littoral standards in Sec. 7.6.H.3.c; and
- 27 c) Upland Reclamation Standards in Sec. 7.6.H.3.d;
28 and
- 29 d) Maintenance and Monitoring requirements for
30 excavated areas, and littoral plantings in
31 Sec.7.6.H.5.
- 32 e) Buffer requirements in Sec.
33 7.6.F.6.d.(2).(a).(iii); and,
- 34 f) Setbacks shall be provided pursuant to Type II
35 setback requirements in Sec. 7.6.F.5.c.
- 36 g) Location and Access. The development shall have
37 direct frontage on and access to a collector or
38 arterial street depicted on the County's
39 Thoroughfare Identification Map.
- 40 The following standards, set forth in Sec.
41 7.6.F.6., shall not apply, unless the BCC makes a
42 finding of fact that waiver of these standards
43 violates the compatibility standards in Section
44 7.6.F.6.d.
- 45 1) Separation from other land uses pursuant to Sec.
46 7.6.F.6.(2)(a)(i)(1); and,
- 47 2) Minimum acreage requirement pursuant to
48 7.6.F.6.(2)(b).
- 49
- 50 (ii) Excavation, performed by public agency, to provide
51 drainage for a public right-of-way. Excavation
52 activity located outside the right-of-way
53 boundary, conducted solely to accommodate drainage
54 for a public road right-of-way, and performed or
55 caused to be performed by contract by a public
56 agency, as defined herein, shall comply with the
57 standards below. The excavation activity shall:
- 58 1) be on land owned by Palm Beach County, the State
59 or a Water Control District created by special act
60 to operate under Fl. Statutes Chapter 298 (1996);
61 or
- 62 2) be on land granted by easement to and accepted by
63 Palm Beach County, the State or a Water Control

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1 District; and,
2 3) be the absolute minimum necessary to comply with
3 the surface water drainage requirements for the
4 public right-of-way.

5 For the purposes of this section, authorization by
6 Palm Beach County, Florida Department of
7 Transportation or a Water Control District to
8 construct a public right-of-way shall constitute a
9 valid development order.

10 The excavation activity shall comply with the
11 standards below.
12 a) Notice of Intent to Construct pursuant to Sec.
13 7.6.G.;
14 b) Operational and Construction standards pursuant
15 to Sec. 7.6.H.1. and 7.6.H.2., except for Sec.
16 7.6.H.1.j. (haul permits);
17 c) Littoral zone and general upland reclamation
18 requirements pursuant to Sec. 7.6.H.3.c and
19 d.(1).(b); and,
20 d) Maintenance and Monitoring requirements pursuant
21 to Sec. 7.6.H.4.

22 f. Type III Excavations.
23

24 (1) Classification. Excavations that meet the definition of
25 mining are considered commercial operations. Type II, or
26 Agricultural excavations that exceed established
27 criteria, as defined in this section, are also
28 considered to be a Type III excavation. Two classes of
29 Type III excavations (Type IIIA and Type IIIB) are
30 established to distinguish between the types of mining
31 operations.

32 (a) Type IIIA. Mining activity, primarily for commercial
33 purposes, that extracts materials from the earth and
34 may require limited on-site processing by using
35 temporary or portable crushers, sifters and conveyor
36 systems. A Type IIIA excavation activity may use
37 dragline, dredging or earthmoving equipment to
38 perform the mining operation provided the operation
39 complies with the standards of this Section and Sec.
40 7.6. The use of explosive devices or permanent
41 structures or equipment used to crush or sift
42 material shall be prohibited.

43 (b) Type IIIB. Mining activity, primarily for commercial
44 purposes, that extracts materials from the earth and
45 may require extensive processing of the material on
46 site. Type IIIB excavations may use dragline,
47 dredging, earthmoving equipment to perform the
48 mining operation. The use of explosives and heavy
49 industrial equipment to crush, sift and transport
50 the material on site may be permitted subject to
51 compliance with the standards of this Section and
52 Sec. 7.6.

53 (2) Use Approval. A Class "A" Conditional Use is required
54 for all Type III excavations pursuant to Sec. 5.4. and
55 the supplemental application requirements of Sec.
56 6.4.D.35.g. below. Simultaneously with submittal of the
57 Class A Conditional Use Application to the Zoning
58 Division, the applicant shall submit a duplicate copy to
59 the Water Control District that has jurisdiction to
60 maintain roads and drainage within the area. The Water
61 Control District may provide comments to the Zoning

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- 1 Division within 20 calendar days in order for comments
2 to be included in the staff report for presentation to
3 the BCC.
- 4 (a) Certification of a final site excavation) plan. Prior to
5 starting any activity associated with the excavation
6 project, the applicant shall submit an excavation plan
7 to DRC for review and approval in accordance with Sec.
8 5.6.b.2.
- 9 (i) Phasing of excavation activity. In the event that
10 excavation and reclamation is to be conducted in
11 phases, the applicant shall submit a phasing plan
12 complying with the requirements of Sec. 6.4.D.35.g
13 and Sec. 7.6.H.
- 14 (ii) Once reclamation and rehabilitation of the preceding
15 phase of excavation has commenced, a subsequent
16 phase of excavation may begin after receipt of all
17 guarantees, required by Sec. 7.6.H.5, and written
18 authorization by DRC.
- 19 (b) Haul permit. The BCC may require as a condition of
20 approval, a haul permit for unpaved collector or
21 arterial streets as defined in Sec. 7.6.F.6.d.(1)(a). If
22 required, a haul permit application shall be submitted
23 to and approved by the Land Development Division in
24 accordance with Sec. 7.6.H.1.j. prior to Notice of
25 Intent to Construct.
- 26 (c) Notice of Intent to Construct shall be submitted to and
27 receive approval from ERM in accordance with Sec. 7.6.G.
28 prior to initiating any on-site excavation activities.
- 29 (d) Reclamation plan approval and release of performance
30 guarantees. Prior to the release of any performance
31 guarantee, in accordance with Sec. 7.6.H.5, DRC shall
32 approve an "as built" reclamation plan. The plan shall
33 include certified as-built drawings and written
34 certification, bearing the seal of an engineer
35 registered in the State of Florida, certifying
36 compliance with Sec. 7.6.H (excluding littoral and
37 upland planting requirements), and that all construction
38 related development order conditions and guarantees have
39 been satisfied. Performance guarantees for planting
40 areas shall be released in accordance with Sec.
41 7.6.H.4.g.(3).
- 42 (3) Location. All Type III excavations may be permitted in
43 accordance with the Use Regulation Schedule in 6.4.D.
44 Mining may be permitted with limitations in the
45 districts identified below.
- 46 (a) AP District in the AP land use category. The use of
47 extractive material mined in the AP zoning district
48 shall be limited to public road construction
49 projects only and shall demonstrate compliance with
50 the criteria in Sec. 7.6.F.6.d.
- 51 (b) ~~SA District in RR10 Land Use Category.~~ All
52 applications for mining in the SA district in the
53 ~~RR10 land use category~~ shall demonstrate compliance
54 with the criteria in Sec. 7.6.F.6.d.
- 55 (4) Standards. All Type III excavations shall comply with
56 the standards in Sec. 7.6.F.6:
- 57 g. Supplemental application requirements.
- 58 (1) All Type I(B), Type II, Type IIIA and Type IIIB
59 excavations shall supplement the application
60 requirements set forth in Sec. 5.4, Sec. 5.6, and the
61 official application form with the materials and
62 information listed below.
- 63

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- 1 (a) Statement listing the nature of the excavation
2 operation, including but not limited to the:
3 (i) Amount and type of materials to be excavated,
4 (ii) Duration of the excavation activity and reclamation
5 activity,
6 (iii) The proposed method of excavation,
7 (iv) The amount of fill to remain on site,
8 (v) If permitted, the amount of fill to be removed from
9 site, and
10 (vi) intent to comply with Sec. 7.8.C, Archeological
11 Resource Protection.
12 (b) Site (excavation) Plan. A site plan depicting:
13 (i) Boundaries, dimensions and acreage of the site and
14 excavated surface area(s);
15 (ii) All existing and proposed improvements including
16 easements, rights-of-way, weigh stations, and other
17 structures;
18 (iii) Setbacks and separations;
19 (iv) Preservation areas;
20 (v) Water table elevations, including Ordinary Water
21 Level
22 (c) Vegetation permit application. A vegetation permit
23 application pursuant to Sec. 9.5.
24 (d) Aerial. An aerial at a scale of 1:200 or better, clearly
25 depicting the site; and
26 (e) Fees. Fees as adopted by the established Fee Schedules.
27 (2) All applications for Type II, Type IIIA and Type IIIB
28 excavations shall require the additional information
29 listed below.
30 (a) Soil boring statement. A statement, certified by an
31 Engineer indicating the type of soils to be excavated
32 and that the: (1) soils are suitable for road or
33 structural fill construction; or (2) the soil contains
34 excessive amounts of silt, rock or muck.
35 (b) Site (excavation) plan depicting:
36 (i) Operational standards pursuant to Sec. 7.6.H.1.,
37 as applicable;
38 (ii) Equipment storage, and stockpile areas, including
39 sizes and heights.
40 (c) Landscape Plan. A landscape plan indicating the buffers
41 and reclamation plantings.
42 (d) Cross Sections delineating compliance with the following
43 requirements, as applicable:
44 (i) Construction standards pursuant to Sec. 7.6.H.2.;
45 (ii) Reclamation standards pursuant to Sec. 7.6.H.3.;
46 (iii) Buffer details.
47 (e) Operations plan. An operations plan shall be submitted
48 in the form of a statement and shall include the methods
49 of material extraction, on site processing including
50 erosion and sediment control methods and particulate
51 matter control. The plan shall also delineate how the
52 impacts from the hauling operations will be controlled.
53 (f) Haul route plan. The plan shall include a map indicating
54 all possible proposed haul routes within the radius of
55 impacts as defined in Sec. 7.6.F.6.d.
56 (3) All applications for Type IIIA and Type IIIB excavations
57 shall require the additional information listed below.
58 (a) Site (excavation) plan. A site plan depicting:
59 (i) Location of grading, sorting, crushing and similar
60 equipment necessary for the operation and
61 distribution of the excavated material.
62 (b) Additional Information:
63 (i) Maintenance and Monitoring Report Schedule pursuant

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- 1 to Sec. 7.6.H.5;
2 (ii) Surrounding uses map depicting the location of the
3 outer boundary of area to be excavated and distances
4 to surrounding land uses; including all residences
5 within the applicable specified distance in the
6 separation standards in Sec. 7.6.D.6.d.
7 (iii) Phasing Plan. A phasing plan and tabular data
8 depicting acreage, location, sequence of
9 operations and schedule of reclamation
10 requirements.
11 (iv) Tree survey. A tree survey shall be submitted as
12 required by Sec. 7.6.H.3.d.(4).
13 (4) The Zoning Director may request any other information as
14 deemed reasonable and necessary to evaluate the
15 application.

16 Subpart Section 6.4.D.87., Use Regulations and Definitions,
17 Supplementary use standards, Self-service storage is
18 amended to add and delete language and reformat as
19 follows:

20 87. Self-service storage. Self-service storage, limited-access
21 means a multi-storied self-service storage facility, with
22 limited access points from the exterior of the building to
23 interior halls that serve individual bays. Self-service
24 storage, multi-access means a one story self-service
25 storage facility with multi-access points from the exterior
26 of the building to individual bays. A self-service storage
27 use may be developed as a one or two story multiple access
28 facility, ~~or as a multi-story limited access facility, or~~
29 ~~as a combination~~ in accordance with the standards in this
30 subsection.

31 a. General. All self-service storage uses shall comply with the
32 following:

- 33 (1) Uses....
34 ~~(3)(a) Use of bays....~~
35 ~~(4)(3) Minimum lot size. The minimum lot size for a self-service~~
36 ~~storage facility shall be two (2) acres. A self-service~~
37 ~~storage facility use included within a Planned~~
38 ~~Development District shall have a minimum of two (2)~~
39 ~~acres devoted exclusively to such use be subject to the~~
40 ~~minimum acreage requirements as indicated in the~~
41 ~~supplemental standards in this section.~~
42 ~~(5)(4) Security quarters permitted....~~
43 ~~(6)(5) Outside storage....~~

44 ...

- 45 (6) Multi-access and limited-access combinations. A combination
46 of multi-access and limited-access storage uses may be
47 permitted within the same building or on the same site
48 pursuant to the supplemental standards for both uses as
49 indicated in Sections 6.4.87.b & c.
50 (7) Landscaping and buffering.
51 (a) Wall option. The perimeter wall within the landscape buffer
52 may not be required. A self-service storage facility use may
53 dispense with the wall that is required to be erected
54 within the required perimeter landscape strip for that
55 portion of the perimeter if all of the following standards
56 are met.

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1 ...

2 ii) ~~The exterior facades of~~ Separate storage structures

3 ~~are joined~~ connected ~~in~~ by solid walls to give the

4 appearance of structural continuity.

5 ...

6 b. **Supplemental standards for multi-access self-storage**

7 **facilities.** In addition to the general standards above,

8 multi-access self-service storage facilities shall comply

9 with the following regulations:

10 ~~(1)-(4)~~ Minimum lot size. The minimum lot size for a multi-

11 access facility shall be two (2) acres.

12 ~~(1)-(2)~~ Separation between buildings. Separation between

13 buildings within the facility shall comply with the

14 circulation standards in this subsection or be a minimum

15 of ten (10) feet.

16 ~~(2)-(3)~~ Maximum bay size. The maximum size of a storage bay shall

17 be four hundred fifty (450) square feet.

18 ~~(3)-(4)~~ Height. ~~With the exception of a structure used as a~~

19 ~~security or caretaker quarters, the~~ maximum height of a

20 self-service storage the facility use shall be ~~one (1)~~

21 ~~story with the height of the structure not to exceed~~

22 ~~twenty (20) thirty (30) feet.~~ In addition, a parapet wall

23 shall be constructed to screen roof-mounted air

24 conditioning and any other equipment. The combined height

25 of the building and the parapet wall shall not exceed

26 ~~twenty five (25) thirty-five (35) feet.~~

27 ~~(4)-(5)~~ Circulation....

28 ...

29 ~~(5)-(6)~~ Door orientation and access. Storage bay doors and access

30 points located on the second story shall be oriented

31 toward the interior of the site.

32 c. **Supplemental standards for limited access self-storage**

33 **facilities.** In addition to the general standards above,

34 limited-access self-storage facilities shall comply with the

35 following regulations:

36 (1) Minimum lot size. The minimum lot size for a limited

37 access facility shall be one (1) acre.

38 ~~(1)-(2)~~ Height. The structure shall meet the height requirements

39 of the district. A parapet wall shall be constructed to

40 screen roof-mounted air conditioning and any other

41 equipment. The parapet wall shall be included in the

42 height of the structure.

43 ~~(2)-(3)~~ Architectural Compatibility. The Board of County

44 Commissioners may require one or more of the facades to

45 incorporate architectural features ~~on one or more facades~~

46 to reduce the scale and mass of the structure. Elevations

47 demonstrating the architectural treatment shall be

48 submitted and approved prior to certification of the

49 final site plan by the Development Review Committee. The

50 Zoning Director may require the architectural elevations

51 to be reviewed by the Board of County Commissioners if it

52 is determined that the proposed architectural features do

53 not correspond to the context and character of the

54 surrounding land uses. Architectural treatment may be

55 required to ensure that the building is compatible with

56 surrounding land uses and does not appear as an

57 industrial warehousing structure. Architectural treatment

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1 may include, but is not limited to:

2 ...

3 (34) Loading. Each entry point used to access hallways leading
4 to the storage bays shall accommodate a minimum of two
5 loading berths and related maneuvering area. The loading
6 areas shall not interfere with the primary circulation
7 system on site. If a minimum 25 foot access way is
8 provided adjacent to the building and serves no other use
9 except the self service storage facility, then the
10 loading area may be established parallel and adjacent to
11 the building.

12 (45) Parking.

13 ...

14 Subpart Section 6.4.D.97., Use Regulations and Definitions,
15 Supplementary use standards, Vehicle sales and rental is
16 amended to add and delete language and reformat as
17 follows:

18 97. Vehicle sales and rental means ~~a~~
19 ~~An establishment engaged in the retail or wholesale sale or~~
20 ~~rental, from the premises, of motorized vehicles or equipment or~~
21 ~~mobile homes, along with incidental service or maintenance.~~
22 ~~Typical uses include new and used automobile sales, indoor~~
23 ~~vehicle showroom, automobile rental, boat sales, boat rental,~~
24 ~~mobile home, manufactured housing and recreational vehicle sales,~~
25 ~~construction equipment rental yards, moving trailer rental, and~~
26 ~~farm equipment and machinery sales and rental. A vehicle sales~~
27 ~~and rental use shall comply with the following supplementary use~~
28 ~~standards.~~
29 a. District Limitations and Use Criteria.

30 (1) CC, CG, IL District.

31 ~~(a)-(2)~~ Truck and trailer rental. Truck and trailer rental
32 limited to a maximum of five (5) vehicles per lot shall
33 be permitted as an accessory use to an auto service
34 station subject to Development Review Committee review
35 and approval. Truck and trailer rental exceeding five (5)
36 vehicles per lot shall be permitted only if approved as a
37 Class "B" Conditional use.

38 (2) MUPD and CG District. An indoor vehicle showroom may be
39 allowed in the MUPD and CG Districts as a permitted use
40 subject to review and approval by DRC pursuant to Sec. 5.6
41 and shall comply with the criteria below:

42 (a) Floor Area. The indoor vehicle showroom shall be a maximum
43 of thirty thousand (30,000) square feet and shall have a
44 maximum of 15 vehicles displayed.

45 (b) Retail sales/lease transactions. Retail sales and lease
46 transactions of new vehicles may occur in the indoor
47 vehicle showroom.

48 (c) New Vehicles. Display of vehicles for sales and lease
49 transactions shall be limited to new vehicles only.

50 (d) Test Drives. No test drives shall be permitted from the
51 indoor vehicle showroom or on-site. Test drives shall occur
52 off-site from an associated dealership.

53 (e) Parking. No vehicles for sale or lease shall be parked or
54 displayed outside of the showroom. Trucks used to transport
55 vehicles to and from the showroom shall not be parked in

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1 required parking areas and shall not be stored on-site.
2 ~~(f) Vehicle Operations.~~ Display vehicles shall not operate
3 engines during store hours. Engines shall only be permitted
4 to operate during the transport of vehicle into or out of
5 the showroom.
6 ~~(g) Maintenance and Repair.~~ Maintenance, repair, paint or
7 detailing operations shall not occur on-site.
8 ~~(3)f-~~ IL district. In the IL district, a vehicle sales and
9 rental use shall be limited to the following.
10 ~~(a) (1) Vehicle Sale and Rental, Accessory.~~ In conjunction with
11 ~~repair facility.~~ In the IL district, A limited vehicle
12 sales and rental use may be an accessory use to in
13 ~~conjunction with a general repair and maintenance~~
14 ~~facility. use shall be permitted, subject to the~~
15 ~~following standards.~~ The vehicle sales and rental uses
16 shall be limited to a maximum of five (5) vehicles per
17 lot.
18 ~~(i) (a) Use approval. Limitations.~~ and Use approval shall be
19 subject to review and approval by the Development Review
20 Committee. ~~The vehicle sales and rental uses shall be~~
21 ~~limited to a maximum of five (5) vehicles per lot.~~
22 ~~(ii) (b) Display.~~ Vehicles on display must be within fifty (50)
23 feet of a repair bay.
24 ~~(iii) (c) Site plan.~~ Site plan approval shall be based on the
25 standards in Sec. 6.4.D (Vehicle sales and rental
26 parking).
27 ~~(b) (3) Automobile rental.~~ Automobile rental shall be permitted
28 as a Class "A" Conditional use.
29 ~~(c) (4) Mobile home, RV sales, and heavy equipment sales or~~
30 ~~rental.~~ The sale or rental of mobile or manufactured
31 homes, recreational vehicles or heavy equipment shall be
32 permitted as a Class "B" Conditional use.

33 **b. Additional Development Standards.**
34 ~~a. Minimum Lot Size.~~ The minimum lot area for vehicle sales and
35 rentals is three (3) acres, except:
36 ~~(1) IL district. in the IL District, and~~
37 ~~(2) Rental. for truck and trailer rental accessory to an auto~~
38 ~~service station, not exceeding five (5) trucks or trailers for~~
39 ~~rent.~~
40 ~~(1) a-~~ Minimum Lot Size. The minimum lot area for vehicle sales
41 and rentals is three (3) acres, except as provided below:
42 ~~(1) (a) IL district. in the IL District, and~~ The minimum lot size
43 shall be one (1) acre.
44 ~~(2) e-~~ Accessory repairs and parts sales....
45 ~~(3) h-~~ Sales office....
46 ~~(4) e-~~ Car wash....
47 ~~(5) d-~~ Loudspeakers....
48 ~~(6) i-~~ Fencing and screening....
49 ~~(7) f-~~ Unloading space....
50 ~~(8) b-~~ Parking....
51 ~~(a) (1) Display.~~ Motor vehicle display, sales, rental and storage
52 shall be permitted subject to the following requirements:

53 ~~(i) (a) Storage.~~ Motor vehicle dealerships may store vehicles
54 outdoors on an improved parking surface without reference
55 to parking stalls, backup distances, parking stall
56 striping or wheel stops. For outdoor motor vehicle sales
57 and display parking, signs and stall striping are not
58 required, but in all other respects, outdoor sales and
59 display parking shall conform to the provisions of Sec.
60 7.2 (Off-street Parking Regulations). Parking for vehicle
61 storage, sales or display may not be counted toward
62 meeting the number of required off-street parking spaces

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1 to be provided for customers and employees.
2 ~~(ii)-(b)~~ **Display.** If a specialized vehicular use area is utilized
3 for display of vehicles, there shall be a barrier
4 separating it from customer parking. This barrier may be
5 in the form of a landscape strip, curbing, removable
6 bollards or other suitable barrier approved by the
7 Zoning Director.
8 ~~(iii)-(c)~~ **Vehicles.** No vehicle shall be parked with its hood or
9 trunk open. Motor vehicles on display shall not be
10 elevated.
11 ~~(b)-(2)~~ **Customer parking.** Customer parking shall be marked with
12 an above grade sign and shall be physically separated
13 from the motor vehicle sales, storage and display space.
14 ~~(c)-(3)~~ **Security.** When the facility is not open, the parking area
15 shall be locked and gated.
16 ~~(9)g.~~ **Operating conditions....**
17 ~~k. Accessory truck and trailer rental. Accessory truck and~~
18 ~~trailer rental limited to a maximum of five (5) vehicles per~~
19 ~~lot may be permitted subject to DRC review. Truck and trailer~~
20 ~~rental exceeding five (5) vehicles shall be permitted only if~~
21 ~~approved as a Class "B" conditional use.~~

22 **Subpart** Section 6.4.D.103.b.(1)(c)iii), Use Regulations and
23 Definitions, Supplementary use standards, Zero lot line
24 home, Design standards is amended to add and delete
25 language as follows:

26 **iii) Drainage easement.** Eaves shall not project over drainage
27 easements. No construction shall be permitted within an
28 established easement, except as allowed in Sec. 6.5.H-K.,
29 Easement encroachment.

30 **Subpart** Section 6.5.A., Property Development Regulations,
31 Property Development Regulations Schedule is amended to
32 add and delete language as follows:

33 **A. Property development regulations schedule.** The minimum lot
34 dimensions, minimum and maximum density, maximum floor area
35 ratio (FAR), maximum building coverage, and minimum building
36 setbacks for uses in each district shall be determined from
37 Table 6.5-1, as may be modified by succeeding provisions of
38 this section. Maximum building height shall be as specified
39 in Sec. 6.0-5.H., Building height. Property development
40 regulations for Overlay districts shall be as specified in
41 Sec. 6.27., Overlay District Regulations. Property
42 development regulations for Planned Development Districts
43 shall be as specified in Sec. 6.8, Planned Development
44 District Regulations. There are no property development
45 regulations for the PO district. A project may be eligible to
46 develop at the maximum density specified in this schedule
47 provided all other property development regulations of this
48 code are met.

49 **Subpart** Section 6.5.G.4.c., Property Development Regulations,
50 Setbacks, Rear Setback, Accessory residential structures
51 is amended to add and delete language as follows:

52 **c. Accessory residential structures.** An accessory or subordinate
53 structure (except guest cottages, accessory apartments, or
54 structures ~~not~~ over ten (10) feet in height), may be
55 constructed in any residential district (except AR and CRS),
56 a distance of five (5) feet from the rear property lines
57 provided it is not within any established easement, and that
58 there is adherence to the side corner yard setback standards.

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1 from these provisions.

2 c.b. ...

3 d.e- The stored merchandise shall be completely screened within
4 ~~an area surrounded~~ by walls or buildings, and shall not
5 protrude above the height of the enclosing walls or
6 ~~buildings—~~or be visible from collector and arterial
7 streets or adjacent residential districts or use.

8 ~~e.d.~~ Outdoor storage of material used for road construction
9 shall be permitted when:

10 . . .

11 **Subpart** Section 6.6.A.9., Supplementary Regulations, Accessory
12 Uses and Structures, Swimming Pools and Spas is deleted
13 in its entirety and replaced as follows:

14 9. Swimming pools and spas.

15 a. Principal and accessory use.

16 **(1) Principal use.** Any swimming pool or spa or screen
17 **enclosure owned and operated as a commercial enterprise**
18 **existing singularly or in combination with other**
19 **commercial recreation uses on the same property shall be**
20 **considered as a principal use subject to the property**
21 **development regulations of the applicable district.**

22 (2) Accessory use. Any swimming pool, spa or screen
23 enclosure operated by a non profit assembly, social,
24 civic organization, residential homeowners association,
25 or resident of a single-family dwelling shall be
26 considered as an accessory use and shall exist in
27 conjunction with the principal use pursuant to the
28 regulations stated herein. The accessory use shall be
29 located on the same lot of the principal use except if
30 operated by a residential homeowners association. If
31 operated by a residential homeowners association then
32 the accessory use shall be located within the
33 development boundary, as applicable.

34 b. Setbacks for Pools and Spas.

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- 1 (1) Setbacks for Swimming Pools and Spas. Setbacks shall be
2 measured to the water's edge:

3	<u>Setbacks</u>	<u>Front</u>	<u>Side interior</u>	<u>Side corner</u>	<u>Rear</u>
4	<u>Single family</u>	<u>28 feet</u>	<u>10.5 feet</u>	<u>18 feet</u>	<u>10.5 feet</u>
5	<u>Zero lot line</u>	<u>23 feet</u>	<u>0 lot line -3 feet</u> <u>Opposite lot line</u> <u>-5 feet</u>	<u>13 feet</u>	<u>5 feet</u>
6	<u>Townhouse</u>	<u>13 feet</u>	<u>3 feet</u>	<u>From property line - 5 feet</u> <u>From</u> <u>r.o.w. - 18 feet</u>	<u>5 feet</u>
7	<u>Rowhouse and Quad</u>				
8					
9	<u>Multi-family, Home Owners Assoc. - Rec. parcels less than 1 (one) acre</u>	<u>25 feet</u>	<u>30 feet</u>	<u>25 feet</u>	<u>30 feet</u>
10					
11					
12					
13					
14					
15	<u>Multi-family, Home Owners Assoc., Non-profit assembly, Social, Civic and Rec. parcels greater than one (1) acre</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>
16					
17					
18					
19					
20					
21					
22					
23					

- 24 (2) Single Family Design Clusters. Single family design
25 clusters are a type of single family dwellings that were
26 permitted under previous zoning codes. This type of
27 housing has been excluded from the ULDC.
28 (a) Pools and spas shall comply with the setbacks indicated
29 on the certified site plan.
30 (b) If setbacks are not indicated on the certified site plan,
31 setbacks for zero lot line homes shall be applied.
32 (3) Setback Reductions.
33 (a) Criteria for Setback Reductions. The following conditions
34 shall be complied with to qualify for reduced setbacks.
35 (i) Open space. The entire rear or side interior property
36 line is adjacent to open space (lake, natural preserve
37 or golf course) a minimum of 50 feet in depth;
38 (ii) Construction. All construction and earthwork is
39 completed within the owner's lot; and
40 (iii) Maintenance. All maintenance can be conducted from
41 within the owner's lot.
42 (b) Single family and Zero lot line homes. Swimming pools or
43 spas may be constructed with a three (3) foot rear or
44 side interior setback provided the criteria for setback
45 reductions have been met.

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- 1 (c) Multi-family and Homeowners Assoc. Recreation Parcels
2 less than one (1) acre. Swimming pools or spas may be
3 constructed with a minimum ten (10) foot rear or side
4 interior setback for recreation parcels less than one
5 acre in size provided the criteria for setback reductions
6 have been met.
7 (d) Planned Developments. Setbacks for swimming pools or spas
8 may be reduced in accordance with the flexible
9 regulations in Sec. 6.8.A.8.(f).1 and administrative
10 deviations in Sec. 6.8.A.15.c.
11
12 c. Building coverage. Swimming pools or spas located at
13 finished grade shall not be included in the building
14 coverage calculation unless contained in a building or
15 within a screen enclosure with a solid roof.
16 d. Fencing, screening and access. Every swimming pool or spa
17 shall be enclosed by a barrier, retaining wall, fence or
18 other structure in accordance with Palm Beach County
19 Swimming Pool and Spa Code, as amended.
20 e. Easement encroachment. Pools or spas shall not encroach any
21 utility, drainage or lake maintenance easement.
22 f. Swimming Pools and Spas in Common Areas. The construction
23 of private swimming pools and spas for individual
24 households within a common area is prohibited, unless the
25 swimming pools and spas were legally constructed within a
26 specified development pod prior to April 21, 1995. If any
27 of the existing dwelling units have exiting swimming pools
28 or spas in the common area of a development pod, the
29 remaining dwelling units within the same development pod
30 may construct a swimming pool or spa as shown on the final
31 subdivision plan or final site plan. If the final
32 subdivision plan or final site plan does not graphically
33 depict the placement of swimming pools or spas in common
34 area, application shall be made to Development Review
35 Committee to amend the final subdivision plan or final site
36 plan to depict the placement of the swimming pool or spa if
37 in compliance with the following criteria.
38
39 (1) Legally permitted. The applicant demonstrates that
40 existing swimming pools and spas were legally permitted
41 and constructed in common areas;
42 (2) Joint applicant. The landowner or homeowner's association
43 must be a joint applicant on the building permit
44 application;
45 (3) Setbacks. The structure must comply with all setback
46 requirements measured from the outer boundary of the
47 common area or have a fifteen (15) foot separation
48 between primary structures, whichever is greater.
49 (4) Private structures. No private structures are proposed to
50 be erected in a required perimeter landscape area;
51 (5) Open space. The entire development must continue to meet
52 open space requirements;
53 (6) Documents. The homeowners' documents shall be amended to
54 include provisions that allow private use of the common
55 area upon association approval; and
56 (7) Prohibitions. Structures will not be permitted in a
57 common area that is designed as a water management tract.
58
59 Subpart Section 6.6.A.10., Supplementary Regulations, Accessory
60 Uses and Structures, Screen Enclosures is deleted in its
entirety and replaced with the following.

10. Screen Enclosures.

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a. General. Screen enclosures may be covered with a screened or solid roof. Property development regulations vary based upon the type of roof covering.

b. Setbacks for Screen Enclosures with Screened Roofs.

(1) Setbacks for screen enclosures with screen roofs. Setbacks shall be measured as specified in the chart below:

Setbacks	Front	Side Interior	Side corner	Rear
Single family	25 feet	7.5 feet	15 feet	7.5 feet
<u>Zero lot line</u>				
Zero lot line side	20 feet	0 feet	10 feet	2 feet
Opposite lot line	20 feet	2 feet	10 feet	2 feet
<u>Townhouse, Row house</u>				
Measured from lot boundary	10 feet	0 feet	From lot line - 5 feet From r.o.w. line - 15 feet	0 feet
Measured from inside edge of buffer of PUD or Tract boundary	15 feet	15 feet	15 feet	15 feet
Separation between groups	25 feet	15 feet	N/A	15 feet
<u>Townhouse, Quad</u>				
Measured from lot boundary	0'	0'	From lot line - 0 feet From r.o.w. line - 15 feet	0 feet
Measured from inside edge of buffer of PUD or Tract boundary	15 feet	15 feet	15 feet	15 feet
Separation between groups	25 feet	15 feet	N/A	15 feet
Multi-family, Home Owners Assoc. - Rec. parcels less than 1 acre	25 feet	20 feet	20 feet	20 feet
Multi-family, Home Owners Assoc., Non-profit assembly, Social, Civic, and Rec. parcels greater than 1 acre	30 feet	25 feet	25 feet	25 feet

(2) Setback Reductions.

(a) Criteria for Setback Reductions. The following conditions shall be complied with to qualify for reduced setbacks.

- (i) Open space. The entire rear or side interior property line is adjacent to open space (lake, natural preserve or golf course) a minimum of 50 feet in depth;
- (ii) Construction. All construction and earthwork is completed within the owner's lot;
- (iii) Maintenance. All maintenance can be conducted from within the owner's lot; and

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- 1 (iv) Overhang. Roof eaves or structures shall not overhang the
2 property line or encroach any utility, drainage or lake
3 maintenance easement.
- 4 (b) Single family and Zero lot line homes. Screen roof
5 enclosures may be constructed with a zero (0) foot rear or
6 side interior setback provided the criteria for setback
7 reductions have been met.
- 8 (c) Multi-family and Homeowners Assoc. Recreation Parcels less
9 than one (1) acre. Screen enclosures may be constructed
10 with a five (5) foot rear or side interior setback for
11 recreation parcels less than one acre in size provided the
12 criteria for setback reductions have been met.
- 13 (d) Planned Developments. Setbacks for screen enclosures may be
14 reduced in accordance with the flexible regulations in Sec.
15 6.8.A.8.(f).1 and administrative deviations in Sec.
16 6.8.A.15.c.
- 17 (3) Special Setback Provisions for Townhouses.
- 18 (a) No setbacks are required from individual property lines of
19 units, if applicable. Setbacks are required to be measured
20 from perimeter property lines of the development pod in
21 compliance with Sec. 6.4.D.95.d. of the ULDC.
- 22 (b) In cases where the townhouse and accessory screen enclosure
23 covers 100 percent of the lot, the screen enclosure shall
24 maintain a minimum separation between other screen
25 enclosures or the principal structure of townhouse groups,
26 as specified in the table above.
- 27 (c) Separations between two townhouse groups shall be measured
28 by drawing a center line between the two adjacent groups
29 and measuring a minimum distance of 7.5 feet from the
30 centerline between the proposed enclosures to ensure an
31 equidistant separation of a minimum of 15 feet.
- 32 (d) Screen enclosures for townhouses may cover 100% of the
33 total lot area provided minimum separations between groups
34 are met.
- 35 (4) Special Setback Provisions for Single Family Design
36 Clusters. Single family design clusters are a type of
37 single family dwellings that were permitted under previous
38 zoning codes. This type of housing has is no longer
39 permitted by the ULDC.
- 40 (a) Screen enclosures shall adhere to the setbacks indicated on
41 the certified site plan.
- 42 (b) If no setbacks are indicated on the certified site plan,
43 setbacks for zero lot line homes shall be applied.
- 44 (5) Special Provisions for Zero Lot Line Developments. A
45 minimum five (5) foot high opaque fence or wall shall be
46 provided on the zero side of zero lot line extending from
47 the rear of the structure to the rear edge of the screen
48 enclosure. Such wall shall be masonry or wood. The screen
49 enclosure shall may be attached to the fence or wall.
- 50 (6) Building coverage. Screen enclosures with screen roofs
51 shall not be included in the building coverage calculation.
- 52 (7) Maximum Allowable Size. Screen enclosures shall be
53 permitted to cover a maximum of 30 percent of the total lot
54 area except for townhouses.
- 55 (8) Height. The height of the screen enclosure shall not exceed
56 the highest point of the peak of the roof.
- 57 (9) Easement encroachment. Roof eaves or structures shall not
58 overhang the rear property line or encroach any utility,
59 drainage or lake maintenance easement.
- 60 (10) Screen enclosures within common areas of residential
61 developments. The construction of private screen
62 enclosures, for use by individual households, is prohibited
63 in common areas, unless screen enclosures were legally
64 constructed within the same development pod prior to April

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- 1 21, 1995. If any of the existing dwelling units within the
2 development pod have existing screen enclosures in the
3 common area, the remaining dwelling units within the
4 development pod may construct screen enclosures as shown on
5 the final subdivision plan or final site plan.
6
7 If the final subdivision plan or final site plan does not
8 graphically depict the placement of screen enclosures in the
9 common area, application shall be made to Development Review
10 Committee to amend the final subdivision plan or final site
11 plan to depict the placement of the screen enclosures, if
12 compliance with criteria set forth in 6.6.A.9.e. (1)-(7) can be
13 demonstrated.
14 **c. Screen enclosures with solid roofs.**
15 **(1) Setbacks.** Screen enclosures shall meet the minimum setbacks
16 of the principal use of the lot. Setbacks may be reduced in
17 accordance with the flexible regulations in Sec.
18 6.8.A.8.(f).1 and administrative deviations in Sec.
19 6.8.A.15.c.
20 **(2) Building coverage.** Screen enclosures with solid roofs shall
21 be included in the building coverage calculation.
22 **(3) Special provisions for Zero Lot Line Developments.** A
23 minimum eight (8) foot high wall shall be provided on the
24 zero lot line extending at least to the rear edge of the
25 enclosure. Such wall shall be of masonry or wood. The
26 screen enclosure shall be attached to the fence or wall.
27 **(4) Special provisions for townhouse developments.** If the roof
28 of the enclosure is solid, there shall be a minimum eight
29 (8) foot high wall on the shared lot line, extending from
30 the dwelling to the rear edge of the portion of the
31 enclosure that is roofed. The wall shall be fire-rated in
32 accordance with standard building codes. The screen
33 enclosure may be attached to the masonry wall.
34 **(5) Height.** The height of the screen enclosure with a solid
35 roof shall not exceed the highest point of the peak of the
36 roof.
37 **(6) Easement encroachment.** Roof eaves or structures shall not
38 overhang the rear property line or encroach any utility,
39 drainage or lake maintenance easement.
40 **(7) Screen enclosures with solid roofs within common areas of**
41 **residential developments.** The construction of private
42 screen enclosures, for use by individual households, is
43 prohibited in common areas, unless screen enclosures were
44 legally constructed within the same development pod prior
45 to April 21, 1995. If any of the existing dwelling units
46 within the same development pod have existing screen
47 enclosures in the common area, the remaining dwelling units
48 within the development pod may construct screen enclosures
49 as shown on the final subdivision plan or final site plan.
50 If the final subdivision plan or final site plan does not
51 graphically depict the placement of screen enclosures in
52 the common area, application shall be made to Development
53 Review Committee to amend the final subdivision plan or
54 final site plan to depict the placement of the screen
55 enclosures, if compliance with criteria set forth in
56 6.6.A.9.e. (1)-(7) can be demonstrated.
57 **Subpart** Section 6.6.A.11.b., Supplementary Regulations,
58 Accessory Uses and Structures, Accessory radio tower is
59 amended to add and delete language as follows:
60 **11. Accessory radio tower.**
61 ...

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- 1 **b. Setbacks.** Setbacks measured from the base of the radio tower
2 to the property line shall equal a distance of not less than
3 ~~twenty (20)~~ fifty (50) percent of the height of the tower.
4 ...
5
- 6 **Subpart** Section 6.6.A.12., Supplementary Regulations, Accessory
7 Uses and Structures, Amateur radio, television antennas
8 and satellite dish antennas is amended to add and delete
9 language and reformat as follows:
- 10 **12. Amateur radio, and television antennas ~~and satellite dish~~**
11 **antennas.**
- 12 **a. Purpose and intent.** The purpose and intent of this section is
13 to provide for the safe and effective installation and
14 operation of amateur radio, citizens band radio, and
15 television antenna support structures and the beam,
16 satellite, or other antennas installed on those support
17 structures ~~as well as satellite dish antennas~~. It is also the
18 purpose and intent of this section to provide for a
19 reasonable accommodation of amateur radio communications, in
20 accordance with Parts 95 and 97 of Chapter 1 of Title 47 of
21 the Code of Federal Regulations, while reflecting Palm Beach
22 County's legitimate interest of protecting and promoting the
23 health, safety, welfare, neighborhood aesthetics, and morals
24 of its citizens. The standards in this section are intended
25 to place reasonable safety and aesthetic precautions on the
26 installation and erection of such antennas and antenna
27 support structures, and to represent the minimum practicable
28 regulation necessary to protect and promote the health,
29 safety and welfare of the public. The regulations are not,
30 however, intended to unduly restrict or preclude amateur
31 radio communications.
- 32 **b. Applicability.** All amateur and citizens band radio and
33 television transmission and receiving antennas, including
34 satellite dish antennas attached thereto ~~but excluding~~
35 ~~satellite earth stations~~, shall be governed by the standards
36 of this section.
- 37 **c. ~~Approval of a~~ Antennas and antenna support structures.** All
38 antenna support structures and the beam, satellite, or other
39 antenna installed on those antenna support structures, shall
40 be considered accessory uses, and shall comply with the
41 provisions of this section, and the Airport Regulations
42 (Article 18) Sec. 5-23 (Airport Zones and Airspace Height
43 Limitations) of the Palm Beach County Code of Laws and
44 Ordinances.
- 45 **d. Use Approval.**
- 46 **(1) (2) Existing Uses.** All antenna support structures and the
47 beam, satellite, or other antennas installed on these
48 support structures which have been constructed,
49 installed, and are operational as of February 1, 1990
50 shall be considered legal, nonconforming uses.
- 51 **(a) (3) Certification.** All legal nonconforming antenna support
52 structures and the beam antennas installed on these
53 support structures that extend greater than seventy (70)
54 feet above grade level or fifteen (15) feet above
55 building height, whichever is greater, shall acquire
56 written certification from the Zoning Director. Such
57 registration shall reflect the height and location of the
58 antenna support structure, the beam, satellite, or other
59 antennas installed on the support structure, the date of

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- 1 installation, and documentation of installation.
- 2 ~~d. Conditional use.~~ In addition to the requirements of this
- 3 ~~section, all antenna support structures and the beam antennas~~
- 4 ~~installed on these support structures, extending greater than~~
- 5 ~~seventy (70) feet above grade level or fifteen (15) feet~~
- 6 ~~above building height, whichever is greater, shall be a Class~~
- 7 ~~"B" Conditional use.~~
- 8 ~~e. Exemption.~~ All antenna support structures and the beam
- 9 ~~antennas installed on these support structures that do not~~
- 10 ~~extend greater than seventy (70) feet above grade, shall be~~
- 11 ~~exempt from conditional use approval.~~
- 12 (2)(e) Limitation New uses. Antenna support structures and their
- 13 antennas shall be permitted as accessory uses to
- 14 residential uses and be reviewed and approved as provided
- 15 below:
- 16 (a) All Lots. A maximum of four antenna support structures and
- 17 their antennas, forty (40) feet or less in height, shall be
- 18 permitted on any lot. One additional antenna support
- 19 structure and its antenna shall be allowed to a height of
- 20 one hundred five (105) feet. No more than one (1) antenna
- 21 support structure that exceeds forty (40) feet in height
- 22 shall be allowed on any lot. Additional support structures
- 23 or structures that exceed these height limitations shall
- 24 require a Class "B" Conditional use approval.
- 25 (3) Permits. All applicable permits shall be obtained.
- 26 ~~f. Location.~~
- 27 e. Standards.
- 28 (1) Base Size. The base dimension for each antenna support
- 29 structure shall be limited to a maximum five (5) feet in
- 30 overall width at grade. The foundation for each antenna
- 31 support structure shall be no more than one (1) foot above
- 32 grade.
- 33 ~~(2)(a) Setbacks.~~ All antenna support structures and the beam
- 34 ~~antennas installed on these support structures, including~~
- 35 ~~all elements or parts thereof, shall conform to the~~
- 36 ~~minimum yard setback standards of the district in which~~
- 37 ~~it is to be located. A satellite dish antennas shall not~~
- 38 ~~be permitted in front yards and shall meet all accessory~~
- 39 ~~structure setbacks.~~
- 40 (a) Antenna Support Structure.
- 41 (i) —In addition, no a Antenna support structures shall not
- 42 be located in the front yard.
- 43 ~~(b) Support structure location.~~ In addition to complying with
- 44 ~~the district setback standards,~~
- 45 (ii) Lots less than one acre. Antenna support structures
- 46 shall be located to complying with the district setback
- 47 standards or a minimum of twenty-five (25) feet
- 48 whichever is greater.
- 49 (iii) Lots one acre or more. aAntenna support structures shall
- 50 be located to complying with the greater of the
- 51 following:
- 52 1) the minimum district setback standards, or
- 53 2) twenty-five (25) foot setback for support structures and
- 54 their antennas under seventy-five (75) feet in height, or
- 55 3) a setback of fifty (50) percent of the height of the
- 56 support structure and its antenna over seventy-five (75)
- 57 feet in height.
- 58 (iv) All lots. Antenna support structures shall be located on
- 59 the property so as to provide adequate setbacks from of
- 60 the tower from above-ground utility power lines other
- 61 than applicants' service lines, as follows:
- 62 1) setback a minimum distance equal to fifty (50) percent of

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1 the height as calculated from grade to the highest point
2 of the antenna support structure and its antenna, or
3 ~~2) the owner shall submit or~~ a break point calculation
4 certified by a professional engineer, or
5 ~~3) the owner shall submit as evidenced by the manufacturers'~~
6 ~~specifications that demonstrate a clear fall radius. In~~
7 ~~addition, no antenna support structure shall be located~~
8 ~~in the front yard.~~
9 ~~(b)-(c) Beam-array antennas.~~ In addition to complying with the
10 district setback standards, beam array, satellite, or
11 other antennas shall be mounted so as to provide for
12 removal at approach of hurricanes, if necessary, or
13 provide for the lowering of such beam. and in no event
14 shall the beam The antenna or any element thereof extend
15 closer than shall be set back a minimum of ten (10) feet
16 to an official from all rights-of-way line, and/or
17 easements, or property under different ownership.
18 ~~(c)-(d) Anchors location.~~ All antenna support structure and
19 peripheral anchors shall be located entirely within the
20 boundaries of the property. If said supports and anchors
21 are closer than five (5) feet to property under different
22 ownership and if such support or anchor extends greater
23 than three (3) feet above the ground, it shall be
24 effectively screened against direct view from abutting
25 properties and shall extend no greater than six (6) feet
26 above ground.

27 Subpart Section 6.6.A.12.1., Supplementary Regulations,
28 Accessory Uses and Structures, Satellite dish antennas
29 is created as follows:

30 12.1 Satellite Dish Antennas.

31 a. Purpose and Intent. It is the purpose and intent of this
32 section to provide safe and effective installation and
33 operation of satellite signal receiving and transmitting
34 devices in order to protect the health, safety, and welfare,
35 and neighborhood aesthetics, of Palm Beach County's citizens.

36 b. Applicability. All satellite dish antennas shall be governed
37 by the standards of this section unless exempted below or
38 regulated as part of an amateur radio antenna.

39 (1) Exemptions.
40 (a) Residential Uses. Satellite Dish Antennas under thirty-nine
41 (39) inches or one (1) meter in diameter shall be exempt
42 from these requirements.
43 (b) Non-Residential Uses. Satellite Dish Antennas under
44 seventy-eight (78) inches or two (2) meters in diameter
45 shall be exempt from these requirements.

46 c. Standards.
47 (1) Residential Uses.
48 (a) Number. A maximum of one (1) satellite dish antenna over
49 thirty-nine (39) inches or one (1) meter in diameter shall
50 be allowed on any residential lot.
51 (b) Location and Setbacks. Satellite dish antennas shall be
52 mounted on the wall, ground, or a support structure in the
53 side or rear yard and shall not be located on a wall facing
54 the front property line.
55 (i) Setbacks. Satellite dish antennas shall meet setback
56 requirements of the district as measured from the outermost
57 point of the dish on the side closest to the applicable
58 setback or property line.

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- 1 (c) Screening. Satellite dish antennas, if located in the side
2 or rear yard, shall be screened by an opaque fence or
3 hedge.
- 4 (d) Height. Satellite dish antennas shall not exceed the height
5 limitations of the district.
- 6 (2) Non-residential Uses.
- 7 (a) Number. No limitation.
- 8 (b) Location and Setbacks. Satellite dish antennas shall be
9 wall, roof, or ground mounted, and shall not be located in
10 the front or side corner yard.
- 11 (i) Setbacks. Satellite dish antennas shall meet setback
12 requirements of the district as measured from the outermost
13 point of the dish on the side closest to the applicable
14 setback or property line.
- 15 (b) Screening. Satellite dish antennas shall be completely
16 screened from adjacent residential districts by an opaque
17 wall (including parapet walls), fence, or hedge, or
18 combination thereof, and meet standards of Sec. 6.6.A.2.,
19 height limitations of the district.
- 20 **Subpart** Section 6.7.E.1., Overlay District Regulations, PBIA-O
21 Palm Beach International Airport Overlay District is
22 repealed in its entirety and replaced with the
23 following:
- 24 1. Purpose and intent. The Palm Beach International Airport
25 Approach Path Conversion Area Overlay district (PBIA-O)
26 recognizes that some airplane noise-affected lands
27 surrounding the Palm Beach International Airport are most
28 suitable for campus-style industrial development, and other
29 quality non-residential land uses (as described in Article
30 18, Airport Zoning Regulations). The purposes of the PBIA-O
31 district, therefore, are as follows: (1) to protect
32 neighborhoods surrounding the Palm Beach International
33 Airport from incompatible land development; (2) to protect
34 airport operations from incompatible land development, and
35 provide development regulations that will assure safe,
36 unobstructed access for all aircraft that enter and exit the
37 airport; (3) to allow property owners to initiate conversion
38 to industrial use where appropriate; and (4) to allow
39 property owner participation in the land use decision-making
40 process.
- 41 2. Applicability. The provisions of the PBIA-O district shall
42 apply to all development located within the boundaries of the
43 PBIA-O. Nothing herein shall require modification of an
44 existing use, except as provided below.
- 45 3. Boundaries. The PBIA-O district consists of those lands in
46 unincorporated Palm Beach County bounded by Belvedere Road on
47 the north, Southern Boulevard on the south, Military Trail on
48 the east, and the Florida Turnpike on the west, except for
49 incorporated municipal areas.
- 50 4. Conflict with other applicable regulations. Where the
51 provisions of the PBIA-O district conflict with other
52 regulations applicable to the district, the provisions of
53 this section shall prevail, or as otherwise provided by the
54 Comprehensive Plan.
- 55 5. General provisions.
- 56 a. Standards. All development within the PBIA-O district shall
57 be compatible with Airport Operations, as determined by the

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- 1 Board of County Commissioners, using the standards
2 established in the Comprehensive Plan and Article 18.
- 3 b. Use. All development applications shall comply with the
4 provisions of Article 18.
- 5 c. Height. All development applications shall comply with
6 Article 18 (Airport Zoning Regulations) of this code.
- 7 d. FAA. All development must be consistent with FAA standards,
8 guidelines, and regulations for land use compatibility and
9 aviation safety.
- 10 6. Review procedures. All development requests within the PBIA-O
11 district shall comply with the applicable procedural
12 provisions of this Code, in addition to the following:
- 13 a. Permitted Uses. All applications for a permitted use in the
14 PBIA-O shall be reviewed in accordance with Sec. 6.4 Use
15 Regulations Schedule, and Article 18 Land Use Noise
16 Compatibility Schedule.
- 17 b. Site Specific. All Site Specific (Future Land Use Map)
18 amendments to the Comprehensive Plan shall be reviewed by
19 the PBIA-O Committee, who shall then present their
20 recommendations to the Local Planning Agency.
- 21 c. Conditional Uses. All conditional use applications for
22 development permits shall be reviewed by the PBIA-O
23 Committee, which shall then present its recommendation to
24 the Zoning Commission.
- 25 7. Use regulations.
- 26 a. Permitted uses. All residential, commercial, and industrial
27 uses permitted by right in the underlying district shall be
28 permitted in the PBIA-O district. In no case shall adult
29 entertainment establishments, bulk storage of gas and oil,
30 outdoor auctions, open flea markets, and salvage or junk
31 yards and outdoor retail sales (other than greenhouses or
32 nurseries) be permitted in the PBIA-O district.
- 33 b. Special Permits. All uses allowed as special permits in the
34 underlying district shall be permitted in the PBIA-O
35 district after compliance with the special use regulations
36 imposed by the underlying district.
- 37 c. Conditional uses. All uses allowed as conditional uses in
38 the underlying district, except for adult entertainment
39 establishments, bulk storage of gas and oil, outdoor
40 auctions, open flea markets, and salvage or junk yards and
41 outdoor retail sales (other than greenhouses or nurseries)
42 shall be permitted in the PBIA-O district after compliance
43 with the Conditional use regulations imposed by the
44 underlying district.
- 45 d. Nonconforming Uses.
- 46 (1) Existing residential uses. All residential uses that
47 exist within the PBIA-O district at the time that the
48 PBIA-O district provisions are adopted, shall not be
49 classified as a nonconforming use.
- 50 (2) Existing nonresidential uses. Commercial uses that
51 exist within the PBIA-O district at the time that the

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1 PBIA-O district provisions are adopted and that meet
2 the provisions of this section shall be classified as
3 conforming uses. Commercial uses that exist within the
4 PBIA-O at the time that the PBIA-O provisions are
5 adopted that do not meet the provisions of this
6 section shall be classified as nonconforming uses.

7 **e. Industrial Rezoning in Residential Future Land Use**

8 **Categories.** Land within the PBIA-O district designated as
9 residential or commercial on the Future Land Atlas shall be
10 eligible for rezoning to the IL district, except in non-
11 conversion areas described below. Every application for
12 industrial rezoning within the boundaries of the PBIA-O
13 district, shall comply with the procedures of Sec. 5.3
14 (Official Zoning Map Amendments) and the following:

15
16 (1) **Non-Conversion Areas.** The following areas shall require a
17 land use amendment in order to rezone to the IL zoning
18 district:

- 19 (a) Areas designated as Parks and Recreation. Uses shall be
20 limited to those permitted in the Parks and Recreation
21 land use category.
22 (b) The following areas shall be limited to the uses
23 permitted in the residential future land use category and
24 the designated residential zoning district:
25 (i) Timber Run subdivision,
26 (ii) Lake Belvedere Estates subdivision,
27 (iii) Overbrook subdivision,
28 (iv) The area bounded by Belvedere Road on the North, the
29 Florida Turnpike on the west, Jog Road on the east,
30 and to a depth of 700 feet south from Belvedere Road,
31 and
32 (v) The area bounded by Jog Road to the west, Southern
33 Boulevard to the south, Belvedere Road to the north,
34 and the Timber Run Subdivision and the right-of-way
35 for Cypress Avenue to the east.

36 (2) **Rezoning Criteria.** Lands within the PBIA-O district may
37 be rezoned to the IL district, except for those areas
38 described as non-conversion areas, regardless of the
39 designation on the Future Land Use Atlas provided one of
40 the following conditions are met:

- 41 (a) Lands within the PBIA-O district that support existing
42 residential development or that have a valid development
43 order for residential development may be rezoned to the
44 IL district, if:
45 (i) the parcel has a minimum contiguous area of at least
46 five (5) acres, and,
47 (ii) abuts an industrial zoning or industrial use on at
48 least one side, and,
49 (iii) abuts a right-of-way identified on the County's
50 Thoroughfare Identification Map; or
51 (iv) the parcel has a minimum contiguous area of at least
52 ten (10) acres, and,
53 (v) abuts an industrial zoning or use on at least one
54 side, and,
55 (vi) does not abut a right-of-way identified on the
56 County's Thoroughfare Identification Map; or
57 (b) Lands within the PBIA-O district that are currently
58 vacant may be rezoned to the IL district if:
59 (i) the parcel has a minimum contiguous area of at least
60 five (5) acres, and,

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- 1 (ii) abuts an industrial district or use on at least one
2 (1) side, and,
3 (iii) is contiguous on no more than two (2) sides to
4 existing residential development, and,
5 (iv) abuts a right-of-way identified on the County's
6 Thoroughfare Identification Map; or
7 (v) the parcel has a minimum contiguous area of at least
8 ten (10) acres, and,
9 (vi) is contiguous on no more than two (2) sides to
10 existing residential development, and,
11 (vii) the parcel does not abut a right-of-way identified on
12 the County's Thoroughfare Identification Map, or
- 13 (c) Lands within the PBIA-O district that are bounded by
14 Southern Boulevard on the south, the L-4 Canal on the
15 north, Military Trail on the east, and the western
16 boundary of the Royal Palm Estates subdivision on the
17 west, shall only allow residential uses to convert to
18 industrial uses subject to the following:
19 (i) All new industrial uses shall be developed as a
20 "Planned Industrial Park Development" (PIPD); and
21 (ii) All new PIPDs shall be a minimum size of twenty-five
22 (25) acres; and
23 (iii) All new industrial development shall utilize a campus-
24 style design as well as conform to the requirements
25 for PIPDs; and
26 (iv) The following uses shall be prohibited: salvage junk
27 yards, machine or welding shops, hazardous waste
28 facilities, solid waste facilities, bulk storage
29 facilities, transportation and multi-modal facilities,
30 large-scale repair and heavy equipment repair and
31 service facilities, petroleum and coal-derivations-
32 manufacturing and storage facilities, heliports,
33 helipads, airstrips, hangers and accessory facilities,
34 and Type III excavation.
- 35 8. Property development regulations. Applications shall comply
36 with the property development regulations of the underlying
37 districts except where modified by the following.
- 38 a. Unified control. Any development within PBIA-O district
39 shall be developed under common ownership or unity of
40 control as provided in Sec. 6.8 (Planned Development
41 District Regulations.
- 42 b. Enclosed activities. In addition to standards in Sec.
43 6.6.A.3., all activities, except storage and sales of
44 landscape material, shall be operated within enclosed
45 buildings.
- 46 c. Renovation and expansion of non-residential uses. When a
47 structure used for industrial or commercial uses, lying in
48 a residential district or adjacent to a residential
49 district, is renovated or expanded by more than twenty (20)
50 percent of gross floor area, in any one or more expansions,
51 the property development regulations or the PBIA-O district
52 shall apply.
- 53 d. Lot dimensions and yard setbacks. Setbacks and lot
54 dimensions for commercial and industrial development shall
55 comply with the property development regulations in Sec.
56 6.5 unless modified herein.
- 57 (1) Lot dimensions. All lot dimensions shall comply with

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- 1 those of the underlying zoning district.
2 (2) **Setbacks.** The minimum building setbacks shall be as
3 follows:
4 (a) No structures or truck parking and loading shall be
5 permitted closer than seventy-five (75) feet to any lot
6 line abutting a residential district (inclusive of the
7 buffer), unless the area is designated as display
8 parking as permitted by Sec. 6.4.D.97.
9 (b) No rear yard shall be required where an industrial lot
10 abuts an existing or proposed railroad right-of-way or
11 spur.
12 (c) Setbacks from all other property lines shall be required
13 according to the following table:

<u>Yard</u>	<u>Minimum Setback</u>
<u>Front</u>	<u>25 feet/50 feet</u> <u>in CG</u>
<u>Side, interior</u>	<u>15 feet</u>
<u>Side, street</u>	<u>25 feet</u>
<u>Rear</u>	<u>50 feet</u>

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19 e. **Maximum height for industrial and commercial development.**
20 Building height shall comply with the provisions of the
21 Airport Zoning Regulations in Article 18. In addition,
22 building heights shall be limited to a maximum of thirty-five
23 (35) feet when immediately adjacent to an existing
24 residential use. All commercial and industrial developments
25 immediately adjacent to an existing residential use and
26 greater than thirty-five (35) feet shall be permitted if an
27 additional two (2) feet is added to all setbacks for each
28 foot above thirty-five (35) feet, except where prohibited by
29 Article 18.
30 f. **Commercial vehicle parking and loading.** No truck, or tractor-
31 trailer parking or loading shall be permitted closer than
32 seventy-five (75) feet to the lot lines abutting a
33 residential district (inclusive of the buffer), unless the
34 area is designated as display parking as permitted by Sec.
35 6.4.D.97.
36 g. **Landscaping.** In addition to the provisions of Sec. 7.3
37 (Landscaping and Buffering), the following provisions must be
38 met where a use is proposed that is incompatible with an
39 adjacent development or district.
40 (1) **Minimum dimensions**
41 (a) **Minimum width.** The minimum width of the landscape strip
42 shall be ten (10) feet.
43 (b) **Minimum length.** The landscape strip shall extend along
44 the length of the perimeter between the commercial or
45 industrial lot and the abutting lot or district.
46 (2) **Mandatory landscape barrier.** A landscape barrier shall be
47 constructed within the landscape buffer. The landscape
48 barrier shall consist of a solid (CBS) concrete block and
49 steel wall with a continuous footing or an alternative
50 acceptable to the Zoning Director, having a height no
51 less than six (6) feet measured from the highest grade on
52 either side of the abutting lots. The exterior side of
53 the masonry wall shall be given a finished architectural
54 treatment that is compatible and harmonizes with existing

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- development.
- (3) Planting instructions. Trees shall be planted on alternating sides of the wall at intervals of twenty (20) feet. Trees shall have a minimum height of ten (10) feet. An eighteen (18) inch hedge shall be planted on the exterior side of the wall, between the trees and wall, and running the length of the wall.
- h. Lighting. In addition to the standards of Sec. 6.6 (Outdoor Lighting Standards) and Article 18 (Airport Zoning Regulations), outdoor lighting within the PBIA-O district shall comply with the following:
- (1) Restriction. There shall be no roof top lighting.
- (2) Limitation. Lighting fixtures shall be limited to the minimum needed for essential lighting of the site and building.
- (3) Scaling. Lighting shall be scaled to pedestrians for sites and/or buildings adjacent to residential uses.
- i. Noise compatibility and abatement requirements.
- (1) Consistency. Uses shall comply with the land use compatibility guidelines in the Off-Airport Land Use Compatibility Schedule (Appendix 8 of Article 18).
- (2) Noise abatement. For any commercial or industrial use, noise abatement measures incorporated into the design and construction of the structure must be used to achieve Noise Level Reduction (NLR) demonstrable to twenty-five (25) Ldn, for reception, lounge, and office areas.
- (3) Speakers. No outdoor speakers shall be allowed that are audible at the property line.
- j. Architectural treatment. Architectural treatment shall be incorporated into all sides of the facade, physical layout, and construction of a proposed use to provide an attractive addition to the neighborhood. It should achieve compatibility of design with adjacent uses. Architectural treatment shall, at a minimum:
- (1) Identification. Physically identify the type and character of the use.
- (2) Accommodation. Accommodate the surrounding natural and/or built environment with buildings, their siting, landscaping, lighting, and parking scaled for compatibility with the adjacent land use; and.
- (3) Asset. Be a visual asset to the PBIA-O district.
- Subpart Section 6.8.A.10., Planned Development District Regulations, General, Review and certification by DRC is amended to add and delete language as follows:
10. Review and certification by DRC.
- a. Timing. Within seven (7) working days after the application is determined sufficient, the Development Review Committee shall provide the applicant with a draft list of issues, if any, and then shall convene within three (3) working days of notification of issues to review the application and determine whether it should be certified. An application shall not be certified unless it meets the minimum standards for that use pursuant to Article 6 and Sec. 5.4.E.9. The decision by the ~~Planning~~ Zoning Director on whether to issue an Adequate Public Facilities Determination, a Certificate of

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1 Concurrency Reservation, a Certificate of Concurrency
2 Reservation with conditions, or a Conditional Certificate of
3 Concurrency Reservation, whichever is appropriate, pursuant
4 to Art. 11, Adequate Public Facility Standards, shall be made
5 prior to the Development Review Committee's decision on
6 whether to certify an application. If a decision on adequate
7 public facilities shall be delayed pursuant to the procedures
8 and standards of Art. 11, Adequate Public Facilities
9 Standards, the time for completion of the Development Review
10 Committee decision shall be delayed so that the Planning
11 Zoning Director's decision pursuant to Art. 11, Adequate
12 Public Facilities Standards, is made prior to the Development
13 Review Committee's decision on whether to certify the
14 application. An application shall not be forwarded to the
15 Zoning Commission for review until it has been certified by
16 the Development Review Committee.

17 **Subpart** Section 6.8.A.19., Planned Development District
18 Regulations, General, Amendment to Preliminary
19 Development Plan is amended to add and delete language
20 as follows:

21 **19. Amendment to Preliminary Development Plan.** A Preliminary
22 Development Plan for a Planned Development District may be
23 amended only pursuant to the procedures established for its
24 original approval or as otherwise set forth in this section
25 ~~as applicable.~~

26 **Subpart** Section 6.8.A.21., Planned Development District
27 Regulations, General, Unified control is amended to add
28 and delete language as follows:

29 **21. Unified control.**

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32 **b. County Attorney approval.** Unified control, in the form
33 of Agreements, covenants, contracts, deed restrictions,
34 unities or sureties shall be subject to approved and
35 recorded prior to final certification of the Preliminary
36 Development Plan by the Development Review Committee,
37 except for residential Planned Unit Developments. Unity
38 of Control for Residential Planned Unit Developments
39 shall be approved prior to approval of the first plat.
40 All Unity of Control documents shall be in a form
41 acceptable to by the County Attorney for the development
42 and completion of the development in accordance with the
43 adopted Planned Development order. The Unity of Control
44 shall also provide as well as for the continuing
45 operation and maintenance of such areas, function and
46 all facilities which are not provided, operated or
47 maintained at the general public's expense. The Unity of
48 Control shall be approved and recorded prior to final
49 certification of the Preliminary Development Plan by the
Development Review Committee.

50 **Subpart** Section 6.8.A., Planned Development District
51 Regulations, Table 6.8-2, Planned Development District
52 Use Regulations Schedule is amended to add and delete
53 language as follows:

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TABLE 6.8-2
 PLANNED DEVELOPMENT DISTRICT
 USE REGULATIONS SCHEDULE

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Key to Use Regulations Schedule Land Use Abbreviations:

IND/G = General Industrial CL = Commercial Low IND = Industrial RR = Rural Residential 10
 CH = Commercial High CLO = Commercial Low Office REC = Recreation SECT = Sector
 CHO = Commercial High Office COM = Commercial RES = Residential SHOP = Shopfront
 CIV/P = Privately Owned Civic CR = Commercial Recreation WORK = Workplace
 IND/L = Light Industrial

Key to Use Regulations Schedule:

G = General Land Use S = Special Land Use R = Requested Land Use D = Subject to DRC

Subpart Section 6.8.A., Planned Development District Regulations, Table 6.8-2, Planned Development District Use Regulations Schedule, Notes to Table 6.8-2 is amended to add language as follows:

Notes to Table 6.8-2

- Publicly owned civic uses shall consist of land uses which are required to provide services to meet concurrency requirements such as, but not limited to, required parks, water treatment facilities and fire stations, and services required to mitigate other impacts of the development to service providers such as, but not limited to, public schools or libraries.
- Recreational land uses as required by Article 17, Park and Recreation Standards, and the applicable planned development district regulations shall be allowed according to Sec. 6.4, Use Regulation Schedule, active and passive recreation.

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1 ♦ Additional land uses not indicated in Table 6.8-2, may be specifically allowed within individual Planned
2 Development Districts as specified.

3 **Subpart** Section 6.8.A.23., Planned Development District
4 Regulations, Design objectives is amended to add and
5 delete language as follows:

6 23. **Design objectives.** Planned Developments shall forward the
7 goals of the Comprehensive Plan by complying with the
8 following design guidelines.

9 ...

10 b. **Perimeter landscape and edge areas.** Perimeter landscape or
11 edge areas shall be located along the entire perimeter of a
12 Planned Development and shall buffer incompatible pods and
13 land uses. All perimeter landscape areas shall be designated
14 on the Preliminary Development Plan, Master Plan and Site
15 Plan as one of the following types:

16 (1) **Preserve or mitigate natural areas - Type (A) perimeter**
17 **landscape area.** These perimeter landscape areas shall
18 be designed in conjunction with Sec. 7.5, Vegetation
19 Protection and Preservation. The preservation or
20 mitigation of wetlands and other native, non-invasive
21 plant species is the primary purpose of ~~this~~ these
22 perimeter landscape areas. ~~This~~ These perimeter
23 landscape areas shall be supplemented with trees and
24 shrubs according to Table 6.8-3, Perimeter Landscape
25 Area Regulations, if required by ERM.

26 ...

27 (7) **Design standards.** All perimeter landscape areas shall meet
28 the following requirements:

29 (a) **Land use.** Perimeter landscape areas may be crossed
30 by streets, and may support non-vehicular
31 circulation systems and may be encroached upon by
32 the following site features up to a maximum width of
33 five feet (5') in width: water bodies, dry retention
34 or other similar land uses which do not result in
35 the removal or destruction of native plant or animal
36 species or habitat. The minimum tree and shrub
37 requirements shall be based on the entire surface
38 area (length x width) of the perimeter landscape
39 area including any of the encroachments listed
40 above.

41 ...

42 **Subpart** Section 6.8.B.4.a.(5)(a), PUD, Residential Planned Unit
43 Development District, Application, Preliminary
44 development plan, Special provisions for the
45 designations of civic pods which uses benefit the
46 public, Evaluation criteria is amended to add and delete
47 language as follows:

48 (a) **Evaluation Criteria.** Public civic sites shall meet criteria
49 ~~a-f (i) - (vi)~~ below. Private civic sites shall meet
50 criteria ~~b-g (ii) - (vii)~~ below.

51 a) (i) There is a reduced cost to the public for site
52 acquisition, development or operation of civic uses;
53 b) (ii) Public civic or private civic uses required to provide
54 services to meet recreational, fire rescue or mass

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transit concurrency requirements in accordance with Chapter 163, Florida Statutes or accommodate impacts of development on educational facilities such as schools, or regional libraries;

e) (iii) The proposed civic use shall fulfill a direct service and immediate need, as projected in the County's capital improvement element or, if applicable, further the County's goal to provide adequate primary and secondary education facilities.

d) (iv) Land uses within the PUD shall be located and designed to be compatible with surrounding land uses both internal and external to the PUD.

e) (v) The resulting mix of land uses further the goals to integrate and share facilities, thereby encouraging efficient use of land and reduction in use of public funding sources;

f) (vi) The residents of the PUD can directly benefit from the location and layout of the civic use and the civic use satisfies the design criteria in Sec. 6.8.A. and 6.8.B.

g) (vii) Private civic uses which provide education in accordance with Chapter 623, Florida Statutes.

Subpart Section 6.8.B., PUD, Residential Planned Unit Development District, Table 6.8-6, PUD Property Development Regulations is amended to add and delete language as follows:

**TABLE 6.8-6
PUD PROPERTY DEVELOPMENT REGULATIONS**

...

NOTES to Table 6.8-6:

- C = Indicates the building setback if the lot abuts a non-residentially zoned or designated lot.
- R = Indicates the building setback if the lot abuts a residentially zoned or designated lot.
- * = Indicates that the property development regulation is flexible and may be modified by complying with Sec. 6.8.A.8.e f.(1), Regulating plan. Single family, multiple family, townhouse and zero lot line housing may request flexible regulation for minimum lot dimensions and side and rear building setbacks by applying to DRC as described in Sec. 6.8.A.8.e.(1), Regulating Plan.

...

Subpart Section 6.8.C.4.c.(1), TND, Traditional Neighborhood Development District, Administration, Phasing controls and platting, Meeting hall and parks is amended to add and delete language as follows:

...

c. Phasing controls and platting....

- (1) **Meeting hall and parks.** The site for a meeting hall and fifty (50%) of the parks proposed for a neighborhood shall be platted in a neighborhood proper prior to the platting of fifty (50%) of the residential lots of a neighborhood. Construction of the neighborhood parks system and a meeting hall shall commence as provided in section ~~F.5.a & b~~ C.5.b. & c. (Open space\recreation use) and (Civic use) of this

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1 section.

2 Subpart Section 7.2.C.16.c., Off Street Parking and Loading,
3 Off-street parking, Standards for Parking Structures,
4 Design standards is amended to add and delete language
5 as follows:

6 c. Design standards.

7 (1) Module width standards. The unobstructed distance
8 between columns or walls measured at any point between
9 the ends of the parking aisle shall be as specified in
10 Table 7.256.

11 Subpart Section 7.3.H.8., Landscaping and Buffering,
12 Installation, maintenance, irrigation and replacement,
13 Safe sight distance triangles is amended to add and
14 delete language as follows:

15 8. Safe sight distance triangles.

16 a. County Design Standards. Safe sight distance triangles shall
17 be provided in accordance with County Design Manual standards
18 in order to restrict placement of visual obstructions.
19 ~~Extended safe sight distance triangles shall be required in~~
20 ~~individual cases when the County Engineer determines that~~
21 ~~intersecting street alignments or other factors are such that~~
22 ~~the standard safe sight distance triangles are insufficient~~
23 ~~to ensure appropriate minimum stopping/crossing sight~~
24 ~~distances, in accordance with FDOT "Green book" criteria.~~

25 b. Intersection; access way and right-of-way. Where an access
26 way intersects a right-of-way, two (2) sight distance
27 triangles shall be created, across from each other on both
28 sides of the access way. Measured from point of intersection,
29 two (2) sides of the triangle shall extend ten (10) feet
30 along the abutting right-of-way and access way lines. The
31 third side of the triangle shall be a diagonal line
32 connecting the ends of the two (2) sides as set forth in the
33 County Design Manual, Driveway Connection to a Street Drawing
34 200.4. (Ord. No. 91-15)

35 (1) Alternative. Alternative safe sight distance triangles
36 may be required in individual cases if they are deemed
37 necessary by the county engineer to ensure adequate
38 traffic safety. If alternative safe distance triangles
39 are required, they shall result in traffic safety which
40 is equivalent or superior to the minimum standards of
41 this subsection.

42 c. ~~b.~~ All landscaping within the required safe sight distance
43 triangle areas or extended safe sight distance triangles
44 shall be planted and maintained as follows: Landscape
45 Limitations.

46 (1) Safe sight distance triangle areas shall be planted and
47 maintained in a way that provides unobstructed visibility at
48 a level between thirty (30) inches and eight (8) feet above
49 the crown of the adjacent roadway;

50 (2) Vegetation located adjacent to and within safe sight
51 distance triangle areas shall be trimmed so that no limbs or
52 foliage extend into the required visibility area;

53 (3) Within safe sight distance triangle areas, vegetation shall
54 not be planted, nor shall improvements or devices such as
55 bus benches or shelters or newspaper vending machines be
56 installed in a way that creates a traffic hazard;

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- 1 (4) Landscaping shall be located in accordance with the roadside
2 clear zone provisions of the State of Florida Department of
3 Transportation's *Manual of Uniform Minimum Standards for*
4 *Design, Construction, and Maintenance of Streets and*
5 *Highways, as amended; and*
6 (5) ~~(4)~~ All landscaping shall be planted and perpetually
7 maintained within the safe sight distance triangle area,
8 in accordance with this section.

9 **d. Parking Limitation.**

- 10 ~~(1) (5)~~ No parking or vehicular use areas shall be permitted
11 within the required safe sight distance triangular
12 areas. ~~and~~

13 **Subpart** Section 7.6., Excavation is deleted in its entirety and
14 replaced as follows:

- 15 **A. Purpose and intent.** The purpose and intent of this section
16 is to provide for the health, safety, and welfare of the
17 residents of Palm Beach County by ensuring beneficial and
18 sound land management practices associated with excavation
19 and mining activities. To prevent a cumulative negative
20 impact on the County's natural resources and to achieve
21 these goals, it is the intent of this section to:
- 22 1. Ensure that mining and excavation activities do not
23 adversely impact the health, safety, and welfare of the
24 citizens of Palm Beach County;
- 25 2. Prevent immediate and long-term negative environmental
26 and economic impacts of poor land development practices;
- 27 3. Encourage the use of economically feasible and
28 environmentally sound mining and excavation practices;
- 29 4. Preserve land values by ensuring that alteration of a
30 parcel by non-commercial land excavation does not result
31 in conditions that would prevent that parcel from meeting
32 minimum land development requirements for other valid
33 uses;
- 34 5. Encourage the rehabilitation of commercially mined sites
35 to other beneficial uses by promoting economical,
36 effective and timely site reclamation;
- 37 6. Protect existing and future beneficial use of surrounding
38 properties from the negative effects of excavation and
39 mining;
- 40 7. Provide for the off-site disposal of excess extractive
41 material provided that the excavation site is
42 incorporated into the approval of a bona fide site
43 development plan;
- 44 8. Establish a regulatory framework of clear, reasonable,
45 effective, and enforceable standards and requirements for
46 the regulation of excavation, mining, and related
47 activities; and
- 48 9. Ensure that excavation and mining activities and
49 resulting mined lakes are not allowed to become public
50 safety hazards, or sources of water resource degradation
51 or pollution.

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- 1 **B. Applicability.** All mining and excavation activities that
2 create a temporary or permanent body of water within
3 unincorporated Palm Beach County shall comply with the
4 regulations established in this Section. Sec. 6.4.D.35.,
5 Sec. 6.8, and other State and Local requirements, as
6 applicable. The regulations of this section may be known as
7 the "Palm Beach County Mining and Excavation Code."
- 8 **1. Conflicting provisions.** To the extent provisions of this
9 section conflict with regulations of other applicable
10 regulatory agencies, the more restrictive regulations
11 shall apply. Other permitting agencies include but are
12 not limited to SFWMD, Florida Game and Fresh Water Fish
13 Commission, DEP, and ERM.
- 14 **2. Previously approved development orders.** Excavation and
15 mining projects approved prior to (effective date of this
16 ordinance), may amend the certified site (excavation)
17 plan pursuant to Sec. 5.6 to comply with the standards
18 enumerated below provided the standards do not conflict
19 with development order conditions. All standards of each
20 section shall apply. Selective choice of standards shall
21 not be permitted. DRC may review and approve the
22 excavation plan, pursuant to Sec. 5.6, provided the
23 subject site complies with the compatibility criteria in
24 Sec. 7.6.F.6.d below and the standards in Sec. 7.6.H and
25 provided there is no increase in the land area, excavated
26 surface area, quantity of excavated material, or
27 intensity as approved by the BCC in the original
28 development order. Any increase shall require approval of
29 a development order amendment by the Board of County
30 Commissioners pursuant to Sec. 5.4.E. Applicable
31 standards include:
- 32 **a. Operational standards** pursuant to Sec. 7.6.H.1.
33 **b. Construction standards** pursuant to Sec. 7.6.H.2.,
34 excluding depth.
35 **c. Reclamation standards** pursuant to Sec. 7.6.H.3.
36 **d. Buffer requirements** pursuant to Sec. 7.6.F.6.d(2) or (3)
37 **e. Monitoring and Maintenance requirements** pursuant to
38 Sec. 7.6.H.5
- 39 **C. Authority.** This section is adopted under the authority of
40 Chapter 125, Fla. Stat., and the Palm Beach County
41 Comprehensive Plan, as amended.
- 42 **D. Types of Approvals, General.** Excavation or mining activities
43 shall not be conducted unless such activities are deemed
44 exempt or an approval has been issued in accordance with
45 this section. Types of approval include:
- 46 **1. Exemptions.** A number of specific activities are exempt
47 from the regulatory processes of this Section. Exemptions
48 are listed in Sec. 7.6.E.2. and are administered by ERM
49 and PZ&B.
- 50 **2. Single-family excavations.** Two approval processes (Types
51 1A and 1B) are administered by PZ&B for excavations on
52 single-family lots. Application procedures and
53 requirements are listed in Sec. 6.4.D.35. and Sec.
54 7.6.F.1., and 2.
- 55 **3. Agricultural excavations.** Approval processes for
56 agricultural excavations are administered by ERM and PZ&B
57 and agricultural excavations within the WCAA are
58 administered by ERM. Application procedures and
59 requirements are listed in Sec. 7.6.G.
60

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- 1 4. Site Development Excavations. Approval processes for Type
2 II excavations are administered by PZ&B and by ERM.
3 Application procedures and requirements are listed in
4 Sec. 6.4.D.35. and Sec. 7.6.G.
- 5 5. Mining. Approval processes for Type III excavation
6 activities are administered by PZ&B and by ERM.
7 Application procedures and requirements are listed in
8 Sec. 6.4.D.35.f. and Sec. 7.6.G.
- 9 E. Prohibitions and Exemptions.
- 10 1. Prohibitions. Excavation and Mining activities shall be
11 prohibited in the following areas:
- 12 a. RR20 Future Land Use Category.
13 b. The Pleistocene Sand Ridge.
14 c. An archeological site, unless all the requirements of
15 Section 7.12 have been met.
16 d. Publicly owned conservation areas, publicly owned
17 preservation areas or environmentally sensitive lands.
18 e. Areas otherwise prohibited by this section.
- 19 2. Exemptions. The following excavation activities shall be
20 exempt from the requirements of this section:
- 21 a. Existing Lakes. Existing mined lakes approved prior to
22 June 16, 1992 that have a valid development order which
23 complies with the criteria below shall be exempt from
24 the requirements of this section. If an amendment is
25 proposed that deviates from the original approval, then
26 a development order amendment shall be requested
27 pursuant to Sec. 5.4. and shall comply with the
28 provisions in Sec. 1.5.B.4.
- 29 (1) Regulated by a National Pollutant Discharge
30 Elimination System Permit; or
31 (2) Regulated by a Florida Department of Environmental
32 Protection industrial wastewater operation permit;
33 or
34 (3) Located within an approved residential, commercial,
35 industrial or mixed-use development and function as
36 a stormwater management facility pursuant to:
- 37 (a) A surface water management construction permit
38 issued by the SFWMD; or,
39 (b) A conceptual permit issued by the SFWMD that
40 delineates proposed littoral slopes of the
41 excavated lake(s) conducive for planting; or
42 (c) An applicable County land development permit
43 depicting proposed littoral and upland slopes of a
44 mined lake. As long as the existing excavated lake
45 continues to meet the water quality standards
46 contained in Chapter 62-302, F.A.C.
- 47 b. Pools. Swimming pools, pursuant to Sec. 6.6.A.8.
48 Swimming Pools and Spas.
- 49 c. Small ponds. Ponds, accessory to a principal use, such
50 as but not limited to, small lily ponds, goldfish ponds,
51 reflecting ponds, and other small ornamental water
52 features with a maximum depth of four (4) feet OWL and
53 not exceeding five hundred (500) square feet in surface
54 area.
- 55 d. Cemeteries. Burial plots in approved cemeteries.
- 56 e. Rights-of-way. Excavations within the road right-of-way,
57 when that road is under construction, shall be exempt
58 from this Section. To qualify for the exemption, these

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- 1 excavations shall be performed by Palm Beach County, the
2 Florida Department of Transportation, or any Water
3 Control District created by special act to operate under
4 Fla Statutes Ch. 298.(95). Excavation activity located
5 outside the right-of-way boundary, performed to
6 accommodate roadway drainage which creates a permanent
7 open body of water for a period of 180 days or more
8 shall comply with the standards of a Type II excavation
9 in Sec. 6.4.D.35.e. and Sec. 7.6.F.5
- 10 f. Utilities. Excavations for installation of utilities,
11 including septic systems.
- 12 g. Man-made drainage structures. The repair, reconstruction
13 and maintenance of existing non-tidal man-made canals,
14 channels, control structures with associated riprap,
15 erosion controls, intake structures, and discharge
16 structures, provided:
- 17
- 18 (1) All spoil material is deposited directly to a self-
19 contained upland site, which will prevent the
20 release of material and drainage from the spoil site
21 into surface waters of the State;
- 22 (2) No more dredging is performed than is necessary to
23 restore the canal, channels, and intake, and
24 discharge structures to original design
25 specifications or as amended by the applicable
26 permitting agency; and
- 27 (3) Control devices in use at the dredge site that
28 prevent the release of turbidity, toxic, or
29 deleterious substances into adjacent waters during
30 the dredging operation.
- 31 h. WCAA Canals. Canals of conveyance located in the WCAA
32 which require permits from SFWMD, or DEP, and provided
33 the permitted project does not exceed fifteen (15) feet
34 in depth from OWL.
- 35 i. Mitigation projects. Mitigation projects permitted by
36 SFWMD, DEP, or ERM, pursuant to Chapters 403 and 373,
37 Fla. Stat., and Chapter 62-312, F.A.C., as amended, and
38 Article 9 of this Code, including projects approved to
39 implement an adopted Surface Water Improvement &
40 Management (SWIM) plan and provided the permitted
41 project depth does not exceed twenty (20) feet from OWL
42 or fifteen (15) feet from OWL in the WCAA. Projects
43 proposed to exceed these depths shall comply with the
44 application requirements of Sec. 7.6.G., the
45 administrative waiver requirements of Sec. 7.6.I., and
46 the technical standards of Sec. 7.6.H.1., 2a, 2b, 3 and
47 4.
- 48 j. Wetlands. Excavation activities within jurisdictional
49 wetlands that have been issued permits pursuant to Sec.
50 9.4 of this Code or have been issued a permit for
51 wetland impacts through the Environmental Resource
52 Permit (ERP) process by the Department of Environmental
53 Protection, the South Florida Water Management District,
54 or any other agency with ERP delegation for Palm Beach
55 County.
- 56
- 57 k. Agricultural ditches. Agricultural ditches supporting
58 vegetation production (i.e. groves, row crops, hay, and
59 tree farming) constructed solely in uplands that are

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- 1 less than six (6) feet in depth from OWL which meet the
2 standards of bona fide agriculture. These ditches shall
3 not connect to canals of conveyance or waters of the
4 State without the appropriate Federal, State, and Local
5 approvals or permits.
6
7 1. De Minimis impact. Those projects for which ERM and PZ&B
8 approval is necessary and both departments determine
9 that there will be no significant adverse environmental
10 or land use impacts. A de minimus determination from one
11 agency does not constitute approval by the other.
12
13 m. Canals of conveyance. Canals of conveyance that require
14 permits from SFWMD, DEP, or ERM pursuant to Sec. 9.4.
15
16 F. Specific Standards for each Excavation Type. Before
17 commencement of any excavation, approvals shall be obtained
18 pursuant to the procedures defined in Sec. 6.4.D.35 and
19 standards of this section. Special standards for each
20 excavation type are defined below:
21 1. Type I(A) excavations
22
23 a. Criteria and procedural requirements. All Type I(A)
24 excavations shall comply with the classification
25 criteria and procedural requirements in Sec.
26 6.4.D.35.a.
27
28 b. Specific construction standards. All Type I (A)
29 excavations shall comply with the Operational and
30 Construction standards in Sec. 7.6.H.1. and 7.6.H.2.,
31 unless specifically delineated below:
32 (1) Separation and Setbacks. In addition to the
33 separation standards in Sec. 7.6.H.2.a., the
34 excavated area (measured from the edge of water)
35 shall comply with the following setbacks.
36 (a) Fifteen (15) feet at the time of construction from
37 any adjacent property line. The top of bank shall
38 be a minimum of 5 feet; and,
39 (b) Fifty (50) feet from any potable water well; and,
40 (c) One hundred (100) feet from any septic system
41 pursuant to Sec. 16.1 and 16.2, Environmental
42 Control Rules I and II.
43 (2) Slopes. Slopes shall be constructed in accordance
44 with the standards in Sec. 7.6.H.2.b. If a lake,
45 excavated prior to June 16, 1992, does not comply
46 with the minimum slope requirements of this
47 section, a minimum four (4) foot high gated fence
48 completely enclosing the excavated area may be
49 substituted for the required slopes.
50 (3) Maximum depth. Excavation activity shall not
51 exceed ten (10) feet in depth below OWL.
52 (4) Dewatering. Dewatering activity shall not be
53 allowed unless otherwise permitted by a State or
54 federal permitting agency.
55
56 c. Reclamation. The applicant shall comply with the
57 following reclamation requirements prior to issuance
58 of a Certificate of Occupancy.
59
60 (1) All side slopes shall be stabilized and planted
61 with the appropriate ground cover from top of bank
62 to the edge of the water. If seeding is to be
63 used, a minimum of fifty percent coverage of
64 seeded areas shall be required. Compliance with

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1 erosion control and drainage provisions in Sec.
2 7.6.H.2.b.(1) and (4) shall be required.
3 (2) The property owner shall submit to PZ&B a
4 Certificate of Compliance sealed by a registered
5 Land Surveyor depicting:
6 (a) An as-built survey showing the location, size, and
7 depth of the excavated area; and,
8 (b) In cases where no permanent water body is created,
9 the site plan submitted with the building permit
10 shall serve as the reclamation plan.

11 2. Type I (B) excavations.

12 a. Criteria and procedural requirements. All Type I(B)
13 excavations shall comply with the classification
14 criteria and procedural requirements in Sec.
15 6.4.D.35.b and g.

16 b. Specific construction standards. All Type I(B)
17 excavations shall meet the Operational and
18 Construction standards in Sec. 7.6.H.1. and 7.6.H.2.
19 unless specifically delineated below:

20 (1) Separations and Setbacks. In addition to the
21 separation requirements in Sec. 7.6.H.2., Type
22 I(B) excavations shall maintain minimum setbacks
23 of:
24 (a) Fifty (50) feet measured from the top of bank.
25 (b) Fifty (50) feet from any potable water well; and,
26 (c) One hundred (100) feet from any septic system
27 pursuant to Sec. 16.1 and 16.2, Environmental
28 Control Rules I and II.

29 c. Reclamation. The applicant shall comply with the
30 following reclamation requirements prior to issuance
31 of a Certificate of Occupancy.

32 (1) All side slopes shall be stabilized and planted
33 with the appropriate ground cover from top of bank
34 to the edge of the water. If seeding is to be
35 used, a minimum of (50%) fifty percent coverage of
36 seeded areas shall be required.
37 (2) The property owner shall submit to PZ&B a
38 Certificate of Compliance sealed by a registered
39 Land Surveyor depicting:
40 (a) An as-built survey showing the location, size, and
41 depth of the excavation. In cases where no
42 permanent water body is created, the building
43 permit site plan shall serve as the reclamation
44 plan.

45 3. Agricultural excavations.

46 a. Procedure. All Agricultural excavations shall comply
47 with the procedural and application requirements in
48 Sec. 6.4.D.35.c. and g.

49 b. Operational and construction standards. Applications
50 shall demonstrate compliance with all Operational and
51 Construction standards in Sec. 7.6.H.1. and 7.6.H.2.

52 c. Setback. In addition to the separation requirements in
53 Sec. 7.6.H.2., Agricultural excavations shall maintain
54 a minimum setback of one hundred (100) feet measured

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- 1 from the top of bank.
- 2 d. Reclamation and Maintenance and Monitoring.
- 3 Agricultural excavations shall comply with the
- 4 excavated area, and littoral zone reclamation
- 5 requirements of Sec. 7.6.H.3.b, c, and e, and
- 6 associated Maintenance and Monitoring requirements of
- 7 7.6.H.5., unless granted an administrative waiver by
- 8 ERM.
- 9 e. Guarantee requirements. Agricultural excavations shall
- 10 comply with the Guarantee requirements pursuant to
- 11 Sec. 7.6.H.4.
- 12 g. Notice of Intent to Construct. Notice of Intent to
- 13 Construct shall be required in accordance with Sec.
- 14 7.6.G.
- 15
- 16 4. West County Agricultural Area (WCAA) Excavations.
- 17 a. Procedure. All WCAA excavations shall comply with the
- 18 procedural and supplemental application requirements
- 19 in Sec. 6.4.D.35.d. and g.
- 20 b. Operational and Construction standards. Applications
- 21 for WCAA excavations shall comply with the standards
- 22 in Sec. 7.6.H.1 and 7.6.H.2, except for hours of
- 23 operation.
- 24 (1) Setbacks. In addition to the separation
- 25 requirements in Sec. 7.6.H.2.a, WCAA excavations
- 26 shall maintain a minimum setback of fifty (50)
- 27 feet from all property lines measured from the top
- 28 of bank.
- 29 c. Notice of Intent to Construct. Notice of Intent to
- 30 Construct shall be required in accordance with Sec.
- 31 7.6.G.
- 32
- 33 5. Type II excavations
- 34 a. Procedure. All Type II excavations shall comply with
- 35 the procedural and supplemental application
- 36 requirements in Sec. 6.4.D.35.e. and g.
- 37 b. Standards. Applications for Type II excavations shall
- 38 comply with the requirements below.
- 39 (1) Operational and Construction standards pursuant to
- 40 Sec. 7.6.H.1. and 7.6.H.2.;
- 41 (2) Excavated area, Littoral zone and general upland
- 42 reclamation requirements pursuant to Sec.
- 43 7.6.H.3.b, c, d and e;
- 44 (3) Guarantee requirements pursuant to Sec. 7.6.H.4.
- 45 (4) Maintenance and Monitoring requirements pursuant
- 46 to Sec. 7.6.H.5.
- 47 c. Setbacks. In addition to the separation requirements
- 48 in Sec. 7.6.H.2., Type II excavations shall maintain a
- 49 minimum setback of thirty (30) feet, measured from the
- 50 top of bank to the perimeter boundary of the master
- 51 planned development, subdivision, overall final site
- 52 plan, rights-of-way eighty (80) feet in width or
- 53 greater, and canal rights-of-way. For the purpose of

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- 1 this section the top of bank is considered the
2 waterward edge of the Blake maintenance easement.
- 3 d. Notice of Intent to Construct shall be required in
4 accordance with Sec. 7.6.G.
- 5 6. Type III excavations.
- 6 a. Classification of Type III excavations. A Type III
7 excavation shall be classified as a Type IIIA or a
8 Type IIIB as defined in Sec. 6.4.D.35.f.
- 9 b. Procedural and supplemental application requirements.
10 All Type III applications shall comply with the
11 procedural and supplemental application requirements
12 in Sec. 6.4.D.35.f. and g.
- 13 c. Standards. Applications for all Type III excavations
14 shall comply with the requirements below.
- 15 (1) Operational and Construction standards pursuant to
16 Sec. 7.6.H.1. and 7.6.H.2.;
17 (2) Excavated area, Littoral zone and upland
18 reclamation requirements pursuant to Sec. 7.6.H.3;
19 (3) Guarantee requirements pursuant to Sec. 7.6.H.4;
20 and,
21 (4) Maintenance and Monitoring requirements pursuant
22 to Sec. 7.6.H.5.
- 23 d. Compatibility standards, intent. All Type III
24 excavations shall be reviewed to assure that the
25 proposed excavation is compatible with the surrounding
26 land uses and complies with the separation and setback
27 standards defined in Sec. 7.6.D.6.d.(2) and (3), to
28 ensure there are no negative impacts as defined herein.
29 The Board of County Commissioners shall not approve the
30 application if a finding is made that the use will be
31 incompatible with adjacent land uses. For the purposes
32 of this section, incompatible means negative impacts
33 caused to surrounding land uses because of proximity or
34 direct association of contradictory, incongruous, or
35 discordant land uses or activities, including, but not
36 limited to, the impacts of noise, vibration, dust,
37 traffic, smoke, odors, toxic matter, radiation, and
38 similar environmental conditions.
- 39 (1) General. The following standards shall apply to
40 both Type IIIA and Type IIIB mining activities:
41 (a) Location and Access. Local residential streets
42 shall not be used as a haul route. The site shall
43 front on and have direct access to an arterial or
44 collector street designated on the Palm Beach
45 County Future Thoroughfare Identification Map,
46 which is considered the principal circulation
47 route serving multiple neighborhoods and
48 developments. In cases when the street is on the
49 Thoroughfare Identification Map and is not paved,
50 the BCC may allow an Excavation Type III to locate
51 and have access to the Street provided the BCC
52 makes a finding of fact that the use of the street
53 will not cause an adverse affect on surrounding
54 residential uses. The BCC may use the
55 compatibility criteria herein on which to base
56 their finding of fact.

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1 (i) Restrictions in the RR10 land use category.
2 Commercial excavations shall be prohibited in
3 neighborhoods which support developed single family
4 residences on 60% of the valid lots of record. For
5 the purposes of this section, neighborhoods shall be
6 defined as an area contained within a platted
7 subdivision, a rural unrecorded subdivision or an
8 approved affidavit of exemption, or is an area which
9 has prepared a neighborhood plan in accordance with
10 the Comprehensive Plan or is in an area with lots of
11 similar size.

12 Commercial excavations located in an area with a
13 rural residential land use designation that do not
14 satisfy the definition of neighborhood above, shall
15 have a minimum acreage of 100 acres and 500 feet of
16 frontage with direct access to an arterial or
17 collector street as specified herein.

18
19 (b) Minimum separation from other land uses. Minimum
20 separations from protected land uses are defined
21 in Sec. 7.6.F.6.c.(2)(a)1. (Type IIIA Excavations)
22 and Sec. 7.6.F.6.c.(3)(a)1. and 2. (Type IIIB
23 Excavations). Unless otherwise specified,
24 separations shall be measured from the outermost
25 edge of the excavated area (top of bank),
26 equipment, stockpiles, buildings or structures, to
27 the closest structure of a protected land use.

28 The Board of County Commissioners may reduce the
29 required separation distance based on the
30 compatibility of the use with the adjacent area,
31 and the remoteness or proximity of adjacent
32 incompatible uses, provided the reduction complies
33 with the intent of the compatibility standards in
34 Sec. 7.6.F.6.d. The BCC shall state the basis for
35 the reduced separation and make a finding of fact
36 that the reduction should not negatively impact
37 adjacent uses. If the separation is reduced, the
38 BCC may require increased setbacks, buffering and
39 other restrictions as necessary to protect
40 surrounding land uses.

41 (i) Residential uses. For the purposes of this
42 section existing residential uses shall be
43 defined as a residential lot, supporting a
44 residence, in a platted subdivision, a rural
45 unrecorded subdivision, an approved affidavit
46 of exemption, a plat waiver, or other
47 recorded instrument and is not located within
48 the property lines of the excavation site.

49 (c) Setbacks. Setbacks shall be measured from the
50 outermost edge of the excavated area (top of
51 bank), structure, building, equipment or stock
52 pile to the boundary line of the excavation site.

53 (d) Fence. If mining activity is conducted within one
54 half mile of a residential use the mining
55 operation shall be completely enclosed by a
56 minimum six (6) foot high fence or other similar
57 man-made or natural barrier and shall have signage
58 posted to prohibit trespassing.

59 (e) Airborne noise. Airborne noise produced from the
60 excavation activity shall comply with the
61 provisions in Sec. 7.8.A.4.(2) as measured at the
62 nearest inhabited structure. The sound level

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limits in Sec. 7.8.A.(4)(2) are allowed to increase for a limited duration. For this limited period, noise generated by excavation projects may increase up to 10 dB more than permitted by Table 7.8-1. In addition, the noise level may increase to a maximum of 120 dB once each week day (Monday - Friday) for a maximum of ten (10) seconds each occurrence.

(2) **Type IIIA excavations.**

(a) **Restrictions in the RR10 land use category.**

(i) **Minimum acreage.** The site shall be a minimum of 40 acres.

(ii) **Maximum excavated surface area.** The maximum excavated surface area shall not exceed 30 percent of the gross area contained within the boundary of the excavation site.

(b) **General. The following standards shall apply to all Type IIIA excavations:**

(i) **Minimum separations and setbacks.** In addition to the separation requirements in Sec. 7.6.H.2.a., a Type IIIA excavation shall maintain the following separations and setbacks from adjacent uses as provided below.

1) **Separations from residential land uses.** Separation from an existing residence shall be a minimum of one-quarter (¼) mile, measured from the property line of the excavation project.

	Residential	Commercial	Industrial	Agricultural	ROW
Excavated lake edge	100'	50'	50'	50'	
Processing equipment	600'	200'	200'	200'	
Stockpiles	300'	200'	100'	200'	
Accessory buildings and structures	100'	100'	100'	100'	

(ii) **Stockpile height.** Stockpile height shall be limited to thirty feet (30').

(iii) **Buffer.** A buffer shall be preserved or installed along property lines in accordance with the provisions below. The buffer shall be planted and maintained in accordance with the standards of Sec. 7.3., as applicable.

1) **Existing Vegetative Buffer.** If a substantial native or non-native, non-invasive vegetative buffer exists then the vegetation shall be utilized as a compatibility buffer and preserved along the entire perimeter of the site, except for an approved access area. To be considered substantial, the buffer shall provide an opaque screen and be a minimum depth of 100 feet. If the 100 foot buffer is not opaque, then native vegetation complying with the standards of Alternative Landscape Buffer Number 4 shall be required to be planted to supplement the existing vegetation and shall form a solid visual buffer within 2 years. All native vegetative buffers shall be protected during the duration of the excavation activity in accordance with the

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- standards in the landscape code (Sec. 7.3.H.6.c) and in the Vegetation Preservation and Protection code (Sec. 9.5).
- 2) Existing Prohibited Vegetative Buffer. To provide an instant buffer the BCC, by condition of approval, may permit existing prohibited species to be maintained within the setbacks for a Type IIIA excavation until completion of the excavation activity. In such cases the prohibited species shall be removed prior to DRC certification of the as-built drawings for the final phase of excavation, provided the last phase is a minimum of 25 acres. A landscape buffer as required by Sec. 7.3 shall be installed in conjunction with subsequent development.
- 3) No Existing Vegetative Buffer. If a buffer does not exist along the areas defined below, then an opaque native buffer shall be installed complying with the standards of an Alternative Landscape Buffer Number 4, as defined in the landscape code (Sec. 7.3). The buffer shall be supplemented with a planted earthen berm or a solid landscape barrier, or combination thereof to reach a height of 8 feet in two years. The BCC may require the buffer to be planted to simulate natural conditions. This buffer shall be installed adjacent to:
- a) All road rights-of-way;
 - b) All residential zoning districts and;
 - c) Lots supporting existing or proposed residential uses in the Agricultural Residential zoning district. Unless otherwise determined by the BCC, a buffer shall not be required adjacent to land in agricultural production in the AP, or SA zoning districts nor in the AR zoning district if the land is used solely for bona-fide agricultural purposes.
 - d) Commercial zoning districts.
- (3) Type IIIB excavations.
- (a) Restrictions in the RR10 land use category.
- (i) Minimum acreage. The site shall be on a minimum 100 acres.
 - (ii) Maximum excavated surface area. The maximum excavated surface area shall be determined at the time of the Conditional Use A approval.
- (b) General. All Type IIIB excavations shall comply with the following criteria:
- (i) Minimum separations and setbacks. In addition to the separation requirements in Sec. 7.6.H.2.a., all Type IIIB excavations, except those that lie within the area defined as the WCAA, shall comply with the separations regulations below. Projects within the WCAA shall be evaluated on a case by case bases in accordance with the compatibility criteria in Sec. 7.6.F.6.d and shall have separation requirements set by the BCC.
- 1) Separations from residential uses.
- Separations from residential uses, in all

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1 directions, shall be one (1) mile, measured
 2 in accordance with Sec. 7.6.F.6.d.(1)(b)
 3 above.

4 2) Separations from commercial and industrial
 5 land uses:
 6 Commercial $\frac{1}{2}$ mile
 7 Industrial
 8 (existing development) $\frac{1}{4}$ mile

9 3) Setbacks. Minimal setbacks have been
 10 established based on separations from
 11 protected uses.

12 Table 7.6 - 1
 13 Setbacks
 14 based on
 15 separation from residential uses

<u>Residential Uses</u>	<u>Separations</u>			
	<u>$\frac{1}{4}$ mile</u>	<u>$\frac{1}{2}$ mile</u>	<u>$\frac{3}{4}$ mile</u>	<u>$1\frac{1}{2}$ mile</u>
<u>Mined lake edge</u>	<u>50'</u>	<u>100'</u>	<u>500'</u>	<u>1200'</u>
<u>Processing equipment</u>	<u>100'</u>	<u>300'</u>	<u>800'</u>	<u>1400'</u>
<u>Stockpiles</u>	<u>100'</u>	<u>300'</u>	<u>700'</u>	<u>1300'</u>
<u>Accessory buildings & structures</u>	<u>100'</u>	<u>100'</u>	<u>100'</u>	<u>100'</u>

22 Table 7.6 -2
 23 Setbacks
 24 based on
 25 separation from
 26 Commercial and Industrial land uses

<u>Commercial/Ind Uses</u>	<u>Setback</u>
<u>Mined lake edge</u>	<u>100'</u>
<u>Processing equipment</u>	<u>200'</u>
<u>Stockpiles</u>	<u>200'</u>
<u>Accessory buildings & structures</u>	<u>100'</u>

33 ii) Mining Impact Study. A Mining Impact Study
 34 shall be submitted for all Type IIIB
 35 excavation applications for projects in the
 36 WCAA and for projects which the applicant
 37 requests a reduction in the required
 38 separations. The study shall detail all
 39 methods and procedures for material
 40 extraction, processing, storage and hauling
 41 operations. At a minimum the study shall
 42 include the time of day blasting will occur,
 43 the maximum number of holes to be shot each
 44 occurrence, including the type of explosive

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- 1 agent, maximum pounds per delay, method of
2 packing and type of initiation device to be
3 used for each hole. The study shall include a
4 blasting schedule and establish noise and
5 vibration standards complying with the
6 compatibility criteria in Sec. 7.6. F.6.d.
7 The study shall also demonstrate how these
8 operations will impact surrounding land uses.
- 9
10 Prior to certification of an application for
11 inclusion on a public hearing agenda, the DRC
12 may retain a technical consultant to advise
13 the County of the adequacy of the standards
14 established in conjunction with the Mining
15 Impact Study. The cost of the County's
consultant shall be borne by the applicant.
- 16 **iii) Noise and Vibration Monitoring report.** The
17 applicant shall monitor all blasting and
18 other mining activities and record resultant
19 noise and vibrations. PZ&B may, at any time,
20 require the property owner to submit monthly
21 monitoring reports, indicating the number,
22 time, peak over pressure (noise) and
23 vibration caused by each activity. If
24 requested, the property owner shall provide
25 the noise and vibration monitoring report
26 within 2 working days from the date of the
27 request.
- 28 **iv) Buffer.** A buffer shall be installed along the
29 property line as specified below. The buffer
30 shall be planted and maintained in accordance
31 with the standards of Sec. 7.3.
- 32 **1) Existing Native Vegetative Buffer.** At a
33 minimum, existing native vegetation within at
34 least 100 feet of the property line shall be
35 preserved along the entire perimeter of the
36 site, except for an approved access area.
- 37 **2) Existing Prohibited Vegetative Buffer.** To
38 provide an instant buffer along the entire
39 perimeter of the site, the BCC, by condition
40 of approval, may permit existing prohibited
41 species to be maintained within the setbacks
42 until completion of the excavation activity.
43 In such cases the prohibited species shall be
44 removed prior to DRC certification of the as-
45 built drawings for the final phase of
46 excavation, provided the last phase is a
47 minimum of 25 acres. A landscape buffer as
48 required by Sec. 7.3 shall be installed in
49 conjunction with subsequent development.
- 50 **3) Landscape Buffer Number 4.** Sites within a ¼
51 mile of a public or private right-of-way,
52 which does not support an existing opaque
53 native or non-native, non-invasive vegetative
54 buffer shall install an Alternative Landscape
55 Buffer Number 4, as defined in the landscape
56 code (Sec. 7.3). The buffer shall be
57 supplemented with a planted earthen berm or a
58 solid landscape barrier, or combination
59 thereof.
- 60 **4) No Existing Vegetative Buffer.** If a buffer
61 does not exist along the areas defined below,

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1 then an opaque native buffer shall be
2 installed complying with the standards of an
3 Alternative Landscape Buffer Number 4, as
4 defined in the landscape code (Sec. 7.3). The
5 buffer shall be supplemented with a planted
6 earthen berm or a solid landscape barrier, or
7 combination thereof to reach a height of 8
8 feet in two years. The BCC may require the
9 buffer to be planted to simulate natural
10 conditions. This buffer shall be installed
11 adjacent to:

12 a) All residential zoning districts and;
13 b) Lots supporting existing or proposed
14 residential uses in the Agricultural
15 Residential zoning district. Unless
16 otherwise determined by the BCC, a
17 buffer shall not be required adjacent to
18 land in agricultural production in the
19 AP, or SA zoning districts nor in the AR
20 zoning district if the land is used
21 solely for bona-fide agricultural
22 purposes.

23 (c) Exception to hours of operation. Excavation and
24 hauling activity shall occur only between the
25 hours of 6:00 a.m. to 7:00 p.m., Monday through
26 Friday and 9:00 a.m. to 5:00 p.m. on Saturday,
27 unless otherwise determined by the BCC. Blasting
28 activity shall be limited to 10:00 a.m. to 5:00
29 p.m., Monday through Friday.

30 (d) Notice of Intent to Construct. Notice of Intent to
31 Construct shall be required in accordance with
32 Sec. 7.6.G.

33 G. Notice of Intent to Construct. All applications for
34 Agricultural, WCAA, Type II Excavations and Type III Mining
35 activities shall submit a Notice of Intent to Construct in
36 accordance with the provisions below.

37 1. Prior to commencement of any on-site excavation or mining
38 activities, a Notice of Intent to Construct shall be
39 submitted to ERM and receive written approval from ERM.

40 2. The following information shall be included with the
41 completed Notice of Intent to Construct form:

42 a. Paving and Drainage plans, if applicable;
43 b. Preliminary plat, if applicable, and restrictive
44 covenant, pursuant to Section 7.6.H.3.e.;
45 c. Littoral Planting Plan, pursuant to section 7.6.H.3.c.;
46 and,
47 d. Master Plan, showing all phases of development, if
48 applicable.

49 Items a and b (preliminary plat) shall be signed and sealed
50 by a certified engineer or surveyor as applicable,
51 recognized and approved by the Florida Department of
52 Professional Regulation (FDPR).

53 3. A fee as established by the approved Fee Schedule shall

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- 1 be submitted. Fees are non-refundable and non-
2 transferrable.
- 3 4. All Agricultural and WCAA excavations shall submit a
4 detailed explanation of the proposed bona fide
5 agricultural use. This explanation shall demonstrate
6 consistency with applicable Industry Standards and shall
7 satisfy the definition requirements of bona fide
8 agriculture pursuant to Article 3.
- 9 5. All Type III applications shall provide documentation of
10 an approval for Class "A" Conditional Use pursuant to
11 Section 5.4.
- 12 6. Upon receipt by ERM of a Notice of Intent to Construct
13 and appropriate fee with all information necessary to
14 demonstrate that the provisions of this Section will be
15 met and confirmation by The Land Development Division
16 that all necessary haul permits have been issued, ERM
17 shall issue a written approval to the applicant within
18 thirty (30) days.
- 19 H. Technical standards: Operational, Construction, Reclamation,
20 and Maintenance and Monitoring.
- 21 1. Operational standards and requirements. All excavation
22 types shall comply with the following operational
23 standards unless specifically exempt or prohibited
24 pursuant to Sec. 7.6.E.1.
- 25 a. Hours of operation. All excavation and hauling activity,
26 except dewatering, shall only occur between the hours of
27 7:00 A.M. and 7:00 P.M. Monday through Friday, unless
28 otherwise specified in Sec. 6.4.D.35. or Sec. 7.6.
- 29 b. Objectionable odors. The excavation activity shall be
30 conducted in such a manner as to prevent the occurrence
31 of odors which can be detected off the premises.
- 32 c. Emissions of fugitive particulate matter. Excavation
33 operations, including hauling activity shall be
34 conducted to prevent the emission of dust or other solid
35 matter into the air or on adjacent properties pursuant
36 to Sec. 7.8.F (Smoke, emissions and particulate matter)
37 and Rule 62-296, F.A.C.
- 38 d. Existing topsoil. Where feasible, existing topsoil shall
39 be stored and redistributed on site to provide adequate
40 growing conditions for the revegetation of plant
41 species. Where such storage is not feasible, the area
42 shall be restored with soil of an equal or better
43 quality than that of the excavated topsoil and be
44 redistributed to provide adequate growing conditions.
- 45 e. Equipment storage, maintenance and service areas.
46 Equipment storage, maintenance and service areas shall
47 be setback a minimum two hundred (200) feet from all
48 property lines abutting a residential district or use.
49 The equipment storage area shall be designed such that
50 noise generated by the equipment is muffled in order to
51 comply with the noise performance standards in Section
52 7.8 of this code.
- 53 f. Regulated substances. All storage and use of regulated
54 substances shall be in accordance with the following

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1 substances shall comply with all local, state, and
2 federal regulations. All regulated substance dispensing
3 areas shall comply with the "Best Management Practices
4 for the Construction Industry." Any spill of any
5 regulated substance shall be reported to the Palm Beach
6 County Public Health Unit within one (1) hour and to ERM
7 within one (1) hour or at the beginning of the next
8 business day.

9 g. Dewatering. Dewatering shall not be allowed unless
10 otherwise permitted by a State or Federal permitting
11 agency, or as approved pursuant to rules and regulations
12 of the SFWMD, Sec. 40E-20.302(4). If dewatering is
13 permitted the pumps shall be located, submerged, buried
14 or encased in an insulated structure in order to comply
15 with the noise standards of Sec. 7.8.

16 h. Access to public prohibited. Signs shall be posted
17 prohibiting access to the general public while
18 excavation and reclamation activity is being conducted.

19 i. Retail sale of material. The retail sale of excavated
20 material shall not be permitted on site.

21 j. Hauling material off site.

22 (1) General.

23 (a) All trucks hauling material from sites that permit
24 off-site removal shall be covered to prevent
25 debris and fill from spilling on to the roadway.

26 (b) The hauler shall employ measures, acceptable to
27 the Public Health Unit, and any applicable road
28 maintenance authority, to ensure that the roads
29 are properly maintained and kept free of fugitive
30 particulate matter.

31 (c) The Board of County Commissioners may, on behalf
32 of either the County, or a special district
33 created pursuant to Chapter 298., F.S., require
34 special conditions, including, but not limited to:

35 (i) construction of turn lanes and other roadway
36 improvements necessary to provide safe traffic
37 movement;

38 (ii) requirement to obtain a haul permit from the
39 Department of Engineering and Public Works in
40 accordance with the procedures herein.

41 (d) All vehicles used to haul excavated material shall
42 use the approved haul routes. These vehicles shall
43 not use local residential streets to access
44 arterial or collector streets.

45 (2) Permit required. The Board of County Commissioners
46 may require that the petitioner obtain a haul permit
47 for all streets, within the radius of impact, except
48 for arterial or collector streets as defined in Sec.
49 7.6.F.6.d. For the purposes of this section radius
50 of impact is defined as the primary street system
51 commencing at the access point of the excavation
52 site and extending out along all streets in all
53 directions to the closest arterial or plan collector
54 streets.

55 (3) Contents of Application. A haul permit application
56 shall include, but not be limited to the following:

57 a) The name and address of the applicant and owners of

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- 1 the property;
- 2 b) The legal description of the property;
- 3 c) A map showing all haul routes from the excavation
- 4 site to the nearest major non-residential streets;
- 5 and
- 6 d) Any other material as required by the Director of
- 7 Land Development as deemed reasonable and necessary
- 8 to evaluate the application.
- 9 (4) Guarantee required. A guarantee for road maintenance
- 10 and repair shall be required and shall be released
- 11 as set forth in Sec. 7.6.H.4. for all affected
- 12 streets as required herein.
- 13 (5) Street condition assessment. The haul permit
- 14 application shall include an executed agreement
- 15 between the applicant and the County Engineer and
- 16 other applicable road maintenance authorities
- 17 documenting and assessing the existing conditions of
- 18 the streets within the radius of impact. The
- 19 assessment shall include a description of the
- 20 hauling operations including but not limited to the
- 21 number of trips (as approved in the original
- 22 development order), duration of excavation and
- 23 hauling activity, truck size and weights and the
- 24 existing conditions of all possible streets
- 25 designated as haul routes.
- 26 (6) Designation of haul routes. Proposed haul routes
- 27 shall have adequate structural strength to
- 28 accommodate level of proposed trucking activity.
- 29 Construction of turn lanes and improvements to the
- 30 roadways may be required to accommodate the level of
- 31 proposed truck activity. The proposed route and
- 32 hours of travel shall be approved based on the size
- 33 and nature of the excavation operation and the type
- 34 of trucks involved.
- 35 (7) Issuance of a haul permit. A haul permit with
- 36 designated haul routes shall be obtained from the
- 37 Land Development Division prior to issuance of
- 38 written approval by ERM of the applicant's Notice of
- 39 Intent to Construct.
- 40 (8) Periodic inspections. Every six (6) months, for the
- 41 duration of the project, commencing on the date that
- 42 original agreement was executed, the applicant shall
- 43 schedule an inspection with the County Engineer
- 44 and/or all applicable road maintenance authorities
- 45 to evaluate and document road deterioration and
- 46 needed repairs. The County Engineer or applicable
- 47 road maintenance authority may request a periodic
- 48 inspection at any time, if deemed necessary to
- 49 assess the condition of the street or if repairs are
- 50 needed to ensure the safety of the public.
- 51 (9) Responsibility of applicant. It shall be the
- 52 applicant's responsibility to maintain all minor non-
- 53 residential streets in a safe, operable condition,
- 54 as determined by the County Engineer, for the
- 55 duration of the project. In addition, when the
- 56 excavation activity is completed, the applicant
- 57 shall restore the streets to its original condition
- 58 or to a better condition, which existed at the time
- 59 excavation activity commenced.
- 60 k. Phasing excavation activity. In the event the excavation
- 61 activity is conducted in phases, the phasing plan
- 62 required by Sec. 6.4.D.35.g. shall be subject to Sec.
- 63 5.8, (Compliance with time limitations) Table 5.8-1, and

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1 the requirements in Sec. 7.6.H.3. All excavation types,
2 except Type IIIA and Type IIIB shall comply with Sec.
3 5.8, which limits the project to two primary phases for
4 the purposes of monitoring commencement of the
5 development order. Additional sub-phases may be
6 permitted for each primary phase for the purposes of
7 conducting the excavation activity in accordance with
8 this section. For Type IIIA and Type IIIB excavations,
9 the number of phases and the duration of each phase
10 shall be established as a condition of approval. When
11 establishing the condition of approval for the number
12 and duration of each phase, the BCC shall consider the
13 size of the proposed excavation project, existing and
14 proposed surrounding land uses, surrounding future land
15 use designations, and other pertinent information.

16 1. Sound insulation. All machinery, heavy equipment and
17 vehicles utilized for excavation and hauling purposes
18 shall be equipped with double mufflers to reduce
19 airborne noise caused by excavation operations.

20 2. Construction standards. All excavation types shall comply
21 with the following construction standards unless
22 specifically exempted.

23 a. Separations. Separations shall be measured from the top
24 of bank of the nearest excavated area to the property
25 line or designated area in any given direction as
26 defined below: The excavation shall not be constructed
27 within:

- 28 (1) Wellfield Zone 1 or within 300 feet from a public
- 29 water supply well, whichever is more restrictive;
- 30 (2) Two hundred (200) feet from a wetland or in a
- 31 wetland, unless approved by ERM;
- 32 (3) Three hundred (300) feet from a Class I or Class II
- 33 Landfill;
- 34 (4) Three hundred (300) feet from a site with known
- 35 contamination;
- 36 (5) One hundred (100) feet from a septic system or
- 37 sanitary hazard;
- 38 (6) One hundred (100) feet from a potable water well,
- 39 except for Type I(A) and Type I(B) excavations, or
- 40 (7) Two hundred (200) feet from publicly owned
- 41 conservation areas, publicly owned preservation
- 42 areas or environmentally sensitive lands, unless
- 43 approved by ERM.

44 b. Grading and construction of slopes.

- 45 (1) Slope angle; all excavation types. Slopes with
- 46 unplanted littoral zone areas shall be no steeper
- 47 than four (4) feet horizontal to one (1) foot
- 48 vertical to a minimum depth of minus two (-2) feet
- 49 OWL. Slopes below the minus two (-2) feet depth
- 50 shall not exceed two (2) feet horizontal to one (1)
- 51 foot vertical or the natural angle of repose for the
- 52 specific conditions encountered. Grades and slopes
- 53 shall be constructed in such a manner as to minimize
- 54 soil erosion and to make the land surface suitable
- 55 for revegetation. The slopes shall be adequately
- 56 vegetated with appropriate ground cover from top of
- 57 bank to edge of water within thirty (30) days of
- 58 final grading and thereafter maintained to prevent
- 59 wind and water erosion.

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- (2) Slopes for planted littoral zones; Agricultural, Type II, all Type III excavations and Mitigation projects. The slopes for the planted littoral zone area as required in Sec. 7.6.H.3.c. shall be no steeper than ten (10) feet horizontal to one (1) foot vertical to a distance of five (5) feet waterward of the designated planted littoral zone area. Shallower slopes are encouraged to promote greater success of the littoral zone plantings. A copy of the record drawings certified by a surveyor or engineer recognized and approved by FDPR shall be submitted to ERM within thirty (30) days following completion of slope construction.
- (3) Slope inspections; Agricultural, Type II and Type III excavations and Mitigation projects. Within forty-eight (48) hours prior to completion of construction of the required slopes for the planted littoral zones, notification to ERM is required in order to schedule a slope inspection. An inspection at this time will help to maximize future survivorship of the littoral plantings.
- (4) Drainage; all excavation types. Overland sheet flow directly into the excavated lake or pond shall be minimized. Those areas within a maximum of fifty (50) feet of the excavated lake or pond may discharge run-off to the lake. This restriction shall not apply to any catchment area discharging runoff to a lake designated as a water management tract and incorporated in an approved stormwater management plan for treatment and control of runoff from a development site, where the boundaries of said catchment are delineated on the approved plan.

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- c. Depth.
- (1) Maximum depth for Type II, Type III and Agricultural Excavations shall not exceed twenty (20) feet from OWL because of chloride and total dissolved solids (TDS) or other water quality considerations. This maximum depth may be exceeded if approved by ERM in accordance with Sec. 7.6.I., provided the applicant adequately ensures that: chloride levels shall not exceed two hundred and fifty (250) parts per million (ppm) or TDS does not exceed five hundred (500) ppm within the excavated lake or pond based on ground water sampling prior to construction. If a Type III commercial excavation is located in the WCAA, the applicant may provide reasonable assurance that the ambient off-site chloride levels will not be degraded based upon background levels. Additional sampling may be required during and after construction.
- (2) Maximum depth. for Type I(B) excavations. No excavation shall exceed fifteen (15) feet in depth below the OWL.
- (3) Maximum depth. WCAA excavations. The maximum depth for the excavated lake or pond shall not exceed fifteen (15) feet from OWL due to chloride and TDS considerations. This maximum depth may be exceeded if approved by ERM in accordance with Sec. 7.6.I provided the applicant adequately ensures that: chloride levels shall not exceed two hundred and fifty (250) parts per million (PPM) ~~ex~~ and TDS does not exceed five hundred (500) ppm within the excavated lake or pond based on ground water

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1 sampling prior to construction. Additional sampling
2 may be required during and after construction.
3 (4) A Sediment sump may be constructed, except in a Type
4 IA and Type IB excavation at the excavated lake or
5 pond inlet to a depth of twenty-five (25) feet OWL.
6 However, this sump shall not exceed 5% of the mined
7 lake area.
8 d. Final site conditions. No sharp declivities, pits,
9 depressions, or debris accumulation shall remain after
10 reclamation. Final grading shall conform to the contour
11 lines and grades on the approved site reclamation plan.
12 3. Reclamation standards; excavated area, littoral and
13 upland.
14 a. General.
15 (1) Type of reclamation standards. Four types of
16 reclamation standards are defined below. Reclamation
17 standards vary based on the type of excavation
18 activity as set forth in Sec. 6.4.D.35 and Sec.
19 7.6.F.
20 (a) Excavated area. This area includes the depth of
21 lake and all slopes waterward of the top of bank,
22 excluding littoral plantings.
23 (b) Littoral planting. This area includes all
24 plantings waterward from edge of OWL or plus one
25 (+1) OWL;
26 (c) Upland. This area includes the land area landward
27 of the top of bank and requires that a minimum
28 area of land be maintained or created around the
29 perimeter of an excavated area to preserve future
30 use of the land;
31 (d) Upland planting. This area includes all plantings
32 landward of the top of bank; and requires
33 stabilization of soil and re-establishment of
34 native upland vegetation.
35 b. Excavated area. All slopes shall be reclaimed in
36 accordance with the construction standards in Sec.
37 7.6.H.2. and littoral reclamation requirements in Sec.
38 7.6.H.3.c. below. Areas not required to be stabilized
39 with littoral plantings shall be stabilized and planted
40 with appropriate ground cover from top of bank to the
41 edge of the water. If seeding is used, a minimum of fifty
42 percent coverage shall be required. The depth of the lake
43 and side slopes shall be comply with Sec. 7.6.H.2.
44 c. Planted littoral zones standards. All Agricultural
45 (excluding WCAA), Type II and Type III excavations,
46 excluding ponds, shall comply with the following littoral
47 zone standards.
48 (1) Planted littoral zones shall be provided which
49 comprise, at a minimum, an area equivalent to eight
50 (8) square feet per linear foot of shoreline. For
51 multi-lake systems, each separate lake shall be
52 treated individually for planting purposes.
53 Creativity in design in the placement of the planted
54 littoral zone is strongly encouraged, such as
55 extended areas in one portion of the lake or at the
56 discharge point or islands within the lake.
57 The planted littoral zone area shall be limited to

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1 the area between one (1) foot above OWL and two (2)
2 feet below OWL. If the applicant demonstrates to ERM
3 that the planted littoral area elevations should
4 differ from this requirement based on site specific
5 conditions and based on fluctuations around the OWL,
6 ERM may approve planted littoral area elevations
7 other than those elevations stated above.

8 (2) Vertical walls. Vertical walls, bulkheads or other
9 means of hardening the shoreline may be allowed,
10 however, for each linear foot of vertical wall, an
11 additional eight (8) square feet of planted littoral
12 zone shall be required. Thus every linear foot of
13 vertical wall shall require sixteen (16) square feet
14 of planted littoral zone to be planted.

15 (3) Planting requirements. The littoral zone shall be
16 provided with a minimum of six (6) inches of a sand
17 topsoil mix to promote vegetative growth for those
18 areas that do not have adequate soil conditions to
19 ensure plant survivorship. The littoral zone shall
20 be planted with at least five (5) species of
21 appropriate native wetland vegetation, with an
22 average spacing of two (2) feet on center or as
23 approved by ERM. The design and species used shall
24 be such that the plants have an anticipated minimal
25 eighty (80) percent coverage. This criterion shall
26 be met from the one hundred and eighty day (180)
27 monitoring period, and in perpetuity. The Director
28 of ERM shall maintain a list of acceptable plant
29 species for use in their appropriate elevations
30 within the littoral zones. The list may be amended
31 for general application as more information becomes
32 available. The list shall be open for public
33 inspection and distribution.

34 (4) Timing of Planting. Planting of the excavated lake
35 or pond shall occur no later than immediately prior
36 to the issuance of the first certification of
37 occupancy for any lot adjacent to or abutting the
38 bank of that lake. ERM may approve in writing a
39 phasing plan for planting large single lake systems
40 or interconnected multi-lake systems that would
41 allow lake planting to be phased. At all times,
42 applicant is responsible for minimizing erosion of
43 the littoral shelves until the planting is
44 completed. ERM shall be notified within 48 hours
45 prior to completion of the littoral zone planting.

46 (5) Littoral Planting plans. The plans shall detail the
47 species and numbers of plants to be used, the
48 location and dimensions of the littoral areas,
49 including any compensatory littoral areas, if
50 applicable; typical cross section of planted
51 littoral zones from lake maintenance easements to
52 the maximum depth of the lake; the location and
53 dimensions of any structure for which a compensatory
54 littoral area is required; the methods for planting
55 and ensuring survival of the plants; and other
56 reasonable information required by the Director of
57 ERM.

58 Projects which are proposed to be conducted in
59 phases, shall include plans which delineate the
60 phases of excavation and shall include guarantees
61 for each phase.

62 The signatory of the plans and specifications shall

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1 have a personal familiarity with the site and soil
2 conditions based upon a field review.

3 d. Upland reclamation standards. Upland reclamation
4 standards apply to Type II and all Type III excavations.

5 (1) Reclamation plan.

6 (a) General. A site reclamation plan shall be submitted
7 as an integral part of the application for a Type II
8 or Type III excavation and shall be approved by DRC
9 prior to commencement of work. Reclamation is
10 required to ensure a viable end use for the
11 excavation site. The plan shall demonstrate
12 compliance with the requirements in Section 7.6.H.,
13 except for the littoral planting plan which has its
14 own application submittal requirements. However, the
15 reclamation plan submitted to DRC shall indicate the
16 littoral planting areas.

17 (b) Type II excavation. The certified final site
18 development plan shall function as the reclamation
19 plan and upland planting requirements shall comply
20 with the landscape standards required for the final
21 development plan.

22 (c) Type II excavations exceeding off-site removal
23 limitations. As set forth in Sec.
24 6.4.D.35.e(3).(d)., a Type II excavation shall be
25 classified as a Type IIIA excavation when the
26 applicant proposes to remove more than 10% of the
27 fill offsite. Notwithstanding final site plan
28 certification, the final site development plan shall
29 function as the reclamation plan and planting
30 requirements shall be met in accordance with the
31 landscape requirements for the final site
32 development plan. In such cases, the BCC may waive
33 all or modify a portion of the explicit upland
34 reclamation planting requirements defined below
35 based on the ultimate use of the site. The BCC may
36 require that the upland reclamation plantings
37 defined below be incorporated into the open space
38 pedestrian system as defined on the final site
39 development plan.

40 (d) Type III excavations. The reclamation plan for a
41 Type III excavation shall comply with the upland
42 reclamation standards in this section.

43 (2) Perimeter reclamation. At a minimum, seventy-five
44 percent (75%) of the perimeter of the excavated area
45 shall have a width of one hundred eighty (180) feet; and
46 the remaining twenty-five percent (25%) shall have a
47 width of one hundred (100) feet. All disturbed and
48 reclaimed areas shall be planted or seeded with a
49 permanent native ground cover to reduce the loss of
50 topsoil due to water and wind erosion, to provide
51 adequate growing conditions for reclamation planting
52 requirements and to prevent the establishment of
53 prohibited plant species.

54 (3) Timing of upland reclamation. Reclamation shall occur
55 immediately following the end of excavation or
56 immediately following each phase of excavation,
57 whichever occurs first. Upon commencement of reclamation
58 and rehabilitation of the initial phase of excavation,
59 the next phase of excavation may commence upon written
60 authorization by DRC. The applicable guarantee must be
61 on file prior to authorization for the commencement of
62 excavation on any subsequent phase.

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- 1 (a) Timing of Planting. If excavation activity is
2 phased, planting shall occur at the completion of
3 each phase. Planting of the reclaimed upland area
4 should occur during the rainy season (June-October),
5 within 6 months after completion of the excavated
6 area or phase thereof, as applicable. The property
7 owner shall ensure that proper watering and
8 maintenance occurs in order to ensure a successful
9 survival rate. If planting does not occur during the
10 rainy season, then the property owner shall provide
11 irrigation to establish the new plantings. The
12 Landscape Inspectors of the PZ&B shall be notified
13 48 hours prior to completion of the upland
14 plantings.
- 15 (4) Calculating Planting Requirements. In addition to the
16 buffer requirements in Sec. 7.6.F.6.(2) and (3), the
17 following upland planting requirements shall apply.
- 18 (a) Sites supporting native vegetation. Calculations to
19 determine the reclamation planting requirements for
20 sites supporting native vegetation shall be based on
21 the existing tree cover. Controlled or prohibited
22 species shall be exempt from this calculation. In
23 addition, any tree species located within the
24 required perimeter buffer area shall also be exempt.
25 If no vegetation exists, the applicant shall
26 demonstrate that the site was cleared before 1986 or
27 has been issued and has complied with a vegetation
28 removal permit.
- 29 A certified tree survey shall be submitted by either
30 a landscape architect, forester, land surveyor, or
31 engineer who is registered in the state of Florida.
32 This count shall include all existing on-site native
33 trees with a trunk diameter three (3) inches or
34 greater to be measured at four and one-half (4 ½)
35 feet above the ground. The number of existing trees
36 meeting this criterion shall then be divided by the
37 total number of acres to obtain a tree-per-acre
38 figure. The number of replacement trees to be
39 planted at the time of final site reclamation shall
40 be determined by multiplying the trees-per-acre
41 figure by the number of required reclaimed land
42 acres remaining at the time of final site
43 reclamation. Credit shall be given by PZ&B for
44 existing trees greater than three (3) inches in
45 diameter which are relocated and/or adequately
46 protected during excavation. Any trees relocated
47 and/or protected shall be deducted from the
48 replacement tree count requirement.
- 49 The trees to be replanted shall be native and a
50 minimum 8 feet high. In addition, two (2) understory
51 eighteen inch (18") high seedlings shall be planted
52 for each tree required to be planted.
- 53 (5) Planting standards. The upland reclamation plantings may
54 be clustered in one area of the reclaimed upland area or
55 dispersed throughout the reclaimed upland area. No
56 minimum or maximum area is required, except as a
57 condition of approval, as long as the vegetation is
58 planted in accordance with standards set forth in Sec.
59 7.3 and 9.5.
- 60 Plants are required to be installed in accordance with

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1 the standards in Sec. 7.3.F (Tree and Landscape Material
2 and Planting Standards). A minimum of five (5) native
3 plant species shall be used to fulfill the planting
4 requirements. The design and species used shall be such
5 that the plants have an anticipated minimal survival
6 rate of at least eighty (80) percent at the end of each
7 monitoring period.

8 (6) Plan requirements. The upland reclamation planting plan
9 shall be submitted to DRC simultaneously with the DRC
10 application for the final excavation plan.

11 (a) The signatory of the plans and specifications shall
12 have personal familiarity with the site and soil
13 conditions based upon a field review. The plans
14 shall be signed and sealed by a professional
15 Landscape Architect certified by the Florida
16 Department of Professional Regulation.

17 (b) At a minimum, the plans shall detail the location,
18 species and numbers of plants to be used, and the
19 methods for planting and ensuring survival of the
20 plants, and other reasonable information required by
21 PZ&B.

22 (7) Phased projects In the event that upland reclamation is
23 to be conducted in phases, the following additional
24 requirements shall apply:

25 (a) A phasing plan shall be submitted indicating:

26 (i) Exact acreage of each phase;

27 (ii) Proposed duration of excavation and reclamation of
28 each phase; and

29 (iii) Number of trees to be planted.

30 e. Area of record. All reclaimed littoral and upland
31 planting areas shall be identified graphically and in
32 writing on a separate restrictive covenant. The graphic
33 shall be signed and sealed by a Certified engineer or
34 surveyor as applicable, recognized and approved by the
35 FDPR. If a plat is required, pursuant to Article 8, all
36 planted littoral zones and upland reclamation planting
37 areas shall be identified by reference to the restrictive
38 covenant. The plat and restrictive covenant shall be
39 reviewed and approved by the Zoning Division, ERM, and
40 the County Attorney's office prior to recordation. A copy
41 of the plat, if applicable, and recorded restrictive
42 covenant shall be provided to ERM and PZ&B, prior to
43 issuance of written approval of the Notice of Intent to
44 Construct. Within thirty (30) days following plat
45 recordation, a copy of the recorded plat shall be
46 provided to ERM and Zoning Division.

47

48 The littoral area and reclaimed upland planting area
49 shall be specifically and separately reserved to the
50 owner, or if applicable, to the property owners'
51 association as its perpetual maintenance responsibility,
52 without recourse to Palm Beach County or any other
53 governmental entity or agency. The plat, if applicable,
54 restrictive covenant and property owners' association
55 documents, shall contain the following statement:

56 It is a punishable violation of Palm Beach County Laws,
57 Ordinances, Codes, Regulations and approvals to alter
58 the approved slopes, contours, or cross sections or to
59 chemically, mechanically, or manually remove, damage or
60 destroy any plants in the reclaimed areas and planted
61 littoral zone except upon the written approval from the
62 Director of ERM or Zoning, as applicable. It is the
63 responsibility of the owner or property owners

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1 association, its successors or assigns, to maintain the
2 required survivorship and coverage of the reclaimed
3 upland and littoral areas and to ensure on-going removal
4 of prohibited and invasive non-native plant species from
5 these areas.

6
7 4. Guarantee (Performance Guarantee) Requirements.

8 a. General. ERM shall administer guarantee requirements for
9 the excavated area and littoral plantings. The Zoning
10 Division shall administer guarantee requirements for
11 reclaimed upland area, and upland plantings. The Land
12 Development Division shall administer guarantee
13 requirements associated with road maintenance and repair
14 of haul routes.

15 b. Guarantees required. The guarantees for phased projects
16 may be bonded separately with approval by DRC.

17 (1) Agricultural and Type II excavations. Agricultural
18 and Type II excavations shall be required to provide
19 a guarantee for the littoral zones. If approved as a
20 Conditional Use A, guarantees shall also be required
21 for the excavated area, upland reclamation
22 (excluding upland plantings) and roadway maintenance
23 and repair.

24 (2) Type III. Approval of at least five guarantees shall
25 be required for Type III excavations:

26 (a) excavated areas;

27 (b) reclaimed upland areas;

28 (c) upland planting areas

29 (d) littoral zones; and,

30 (e) road maintenance and repair when a haul permit is
31 required in accordance with Sec. 7.6.H.1.f.

32 c. Execution. The performance guarantee shall be executed
33 by a person or entity with a legal or financial
34 interest in the property. Transfer of title to the
35 subject property shall not relieve the need for the
36 performance guarantee. The seller shall maintain, in
37 full force and effect, the original performance
38 guarantee until it is replaced by the purchaser.

39 d. Form of guarantee. The guarantee shall assure the project
40 performs as approved by the BCC and in accordance with
41 the standards of this code. The guarantee shall take the
42 form of:

43 (1) A Cash deposit or certificate of deposit assigned to
44 Palm Beach County;

45 (2) An escrow agreement for the benefit of Palm Beach
46 County;

47 (3) A performance bond issued by a Florida registered
48 guarantee company which shall be listed on the U.S.
49 Department of Treasury Fiscal Services, Bureau of
50 Government Financial Operations. Said bond may be
51 canceled only upon written 60-day advance notice and
52 acceptance of cancellation by ERM, PZ&B or Land
53 Development Division, as applicable;

54 (4) An unencumbered, clean, irrevocable letter of credit
55 which must be executed on a form provided by Palm
56 Beach County; or

57 (5) Unless otherwise approved in writing by ERM, PZ&B or
58 Land Development Division, as applicable,
59 performance bonds or letters of credit shall be on
60 forms provided by Palm Beach County.

61 e. Amount of guarantee.

62 (1) General. The amount of the guarantees shall be
63 adjusted in accordance with the Consumer Price

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- 1 Index, as provided by the Congressional Budget
2 Office and as approved by the County Attorney's
3 Office.
- 4 (2) Excavated area. Guarantee shall be a minimum of
5 \$1,000 per acre of permitted excavation area.
- 6 (3) Littoral Zones. The guarantee shall be a minimum of
7 \$10,000 and shall be an amount of no less than one
8 hundred and ten (110) percent of the total estimated
9 cost for planting, maintaining, and monitoring the
10 required littoral shelves. ERM retains the option
11 for requesting a second cost estimate for which the
12 performance guarantee is based.
- 13 (4) Reclaimed upland and upland planting areas.
14 Guarantee shall be a minimum of \$10,000 and shall be
15 an amount of no less than of one hundred and ten
16 (110) percent of the total estimated cost for
17 reclaiming, planting, maintaining, and monitoring
18 the upland area and required upland planting areas.
19 PZ&B retains the option for requesting a second cost
20 estimate for which the guarantee is based.
- 21 (5) Roadway maintenance and repair. Streets which
22 require a haul permit in order to be used as a haul
23 route shall be required to post a minimum guarantee
24 in the amount of \$50,000 per mile of affected
25 streets within the radius of impact.
- 26 f. Submittal and approval of guarantee. Except in the case
27 of an application by a political subdivision or agency
28 of the State, all applicants shall submit the guarantee
29 instruments and obtain approval of the guarantee as
30 provided below.
- 31 (1) Reclaimed upland area and upland planting areas.
32 Guarantees for the reclaimed upland area and upland
33 planting areas shall be submitted with the DRC
34 application and approved prior to DRC certification
35 of the final excavation plan.
- 36 (2) Excavated area and Littoral zones. Guarantees for
37 the excavated area and littoral zones shall be
38 approved by ERM prior to issuance of written
39 approval of the Notice of Intent to Construct.
- 40 (3) Road maintenance and repair. Guarantees for road
41 maintenance and repair shall be approved by the Land
42 Development Division prior to issuance by ERM of the
43 applicants Notice of Intent to Construct.
- 44 g. Duration and release of guarantee. The guarantee for the
45 excavated area and upland reclamation area of Type III
46 excavations may be reduced once the "as-built" plan is
47 approved. However, the guarantee shall continue to cover
48 the upland planting and littoral planting areas until
49 released in accordance with this subsection.
- 50 (1) Excavated areas for Type III Excavations. At the
51 request of the applicant, the guarantees shall be
52 released by ERM, after DRC certification of the
53 final as-built reclamation plan, in accordance with
54 Sec. 6.4.D.35.f.(2)(d).
- 55 (2) Upland reclamation area. At the request of the
56 applicant, the guarantees shall be released by PZ&B,
57 after DRC certification of the final as-built
58 reclamation plan, in accordance with Sec.
59 6.4.D.35.f.(2)(d).
- 60 (3) Littoral and Upland Planting Reclamation areas. The
61 Guarantees shall remain in effect a minimum of seven
62 hundred thirty (730) days (2 years) after
63 reclamation is completed in accordance with all

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- 1 requirements of this section and Sec. 6.4.D.35.
2 Guarantees shall not be released until approved
3 plats or separate instruments are recorded and proof
4 of recordation is provided to ERM and PZ&B, pursuant
5 to Sec. 7.6.H.3.e. Following verification of
6 successful completion of reclamation through
7 approval of the submitted as-builts, area of record,
8 monitoring reports, and site inspection(s) by ERM
9 and PZ&B, as applicable, guarantees shall be
10 released.
- 11 **(4) Road maintenance and repair.** The guarantee shall be
12 released by the County Engineer and any applicable
13 road maintenance authority after certification of
14 the final phase of the as-built plan and upon final
15 inspection and acceptance of the repair, maintenance
16 and condition of the streets within the radius of
17 impact.
- 18 **h. County use of guarantee.** Should Palm Beach County find
19 it necessary to use the performance guarantee for
20 corrective work or to fulfill the applicants
21 reclamation, reconstruction or maintenance obligations
22 as set forth herein, the applicant shall be financially
23 responsible for all legal fees and associated costs
24 incurred by Palm Beach County in recovering its expenses
25 from the firm, corporation or institution that provided
26 the performance guarantee.
- 27
- 28 **5. Maintenance and monitoring.** The following maintenance and
29 monitoring program is required for all planted littoral
30 zones and reclaimed planted upland areas.
- 31
- 32 **a. Excavation activity.** The applicant shall submit an
33 annual report to DRC indicating the status of the
34 excavation activity. The report shall include, but not
35 be limited to, the status of:
- 36 **(1)** The current phase(s) of excavation.
37 **(2)** All phases of excavation and reclamation activities
38 (including date(s) of completion and anticipated
39 dates of completion).
40 **(3)** Amount of material extracted and amount of material
41 removed from the site.
42 **(4)** Condition of perimeter buffers and landscaping, and
43 **(5)** Status of compliance with conditions of approval and
44 applicable requirements in Sec. 6.4.D.35, and Sec.
45 7.6.
- 46 **b. Initial maintenance and monitoring of reclaimed upland
47 areas and littoral and upland planting areas.** The
48 planted littoral zones and planted upland areas shall be
49 inspected and monitored for at least one year after
50 planting. Equipment storage, maintenance and service
51 areas shall be monitored until completion of the
52 excavation activity for contamination by regulated
53 substances. The maintenance and monitoring program shall
54 comply with the following requirements:
- 55 **(1) Maintenance.** Inspections, monitoring, exotic plant
56 species removal and replanting during each
57 monitoring period shall be required to maintain the
58 minimum:
- 59 **(a)** eighty percent (80%) coverage criterion for the
60 planted littoral zone from the one hundred and
61 eighty (180) day monitoring period; and,
(b) eighty percent (80%) survivorship for the planted

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1 upland area from the one hundred and eighty (180)
2 day monitoring period;
3 (2) Exotic plant species. Complete removal of the
4 following plant species from the planted littoral
5 zone and upland areas, as applicable:
6 (a) prohibited and invasive non-native plant species
7 as defined by Sec. 9.5.; and
8 (b) invasive species, such as cattails, primrose
9 willows and water hyacinth.
10 (3) Regulated substances. Inspections and monitoring of
11 all equipment storage, maintenance and service areas
12 shall be required to ensure the site has not been
13 contaminated by regulated substances. Construction
14 areas shall be maintained in accordance with the
15 "Regulated Substance Best Management Practices for
16 the Construction Industry."
17 (4) Submittals for monitoring programs. Submittal of
18 monitoring reports for each monitoring period shall
19 be required. The planted littoral zone reports shall
20 be submitted to ERM and the reclaimed upland
21 planting reports shall be submitted to the Zoning
22 Division. These monitoring reports shall represent
23 the monitoring periods commencing with a time zero
24 report, ninety (90) day, one hundred eighty (180)
25 day and three hundred sixty (360) day reports.
26 The time zero monitoring report shall include an as-
27 built drawing signed and sealed by a professional
28 recognized and approved by the Florida Department of
29 Professional Regulation (FDPR) for this type of
30 project and shall be submitted within thirty (30)
31 days of the initial planting. Each subsequent report
32 shall be submitted within thirty (30) days of the
33 completion of the monitoring period. If following
34 the first year of the maintenance and monitoring
35 period, the County finds the planted littoral or
36 reclaimed planted upland areas to be in non-
37 compliance with the provisions herein, the land
38 owner or entity having maintenance responsibility
39 may be required by the County to extend their
40 maintenance and monitoring period, until compliance
41 with the maintenance and monitoring requirements is
42 met.
43 (5) Content of monitoring reports. Each monitoring
44 report, including the time zero report, shall assess
45 the species, numbers, and locations of planted
46 littoral zones and reclaimed upland planting areas.
47 The report shall also depict the equipment
48 maintenance, storage and service areas and assess
49 the condition of the ground as a result of possible
50 leakage or spillage of regulated substances. The
51 report shall include multiple photographs (panoramas
52 are preferred) of the site clearly showing these
53 areas. Photographs must be taken at approximately
54 the same location(s) each time.
55 In addition, the report shall detail the species,
56 numbers and locations of additional plantings that
57 were made to attain the eighty percent (80%)
58 survivorship/coverage criteria, if such plantings
59 were necessary.
60 c. Long-Term Maintenance and Monitoring of reclaimed upland
61 areas and littoral and upland planting areas. After the

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- 1 first year, the land owner or entity having maintenance
2 responsibility for the planted littoral zone and planted
3 upland reclamation area, shall maintain these areas in
4 the following manner:
- 5 (1) The reclaimed upland areas shall maintain a minimum
6 survivorship of eighty percent (80%), and the
7 planted littoral zone shall maintain a minimum
8 coverage of eighty percent (80%).
- 9 (2) Exotic and invasive non-native plant species as
10 defined by Section 9.5. and invasive species, such
11 as cattails, primrose willows and water hyacinth,
12 shall be restricted to a coverage of less than ten
13 percent (10%) of the required planted littoral zone.
14 No exotic or invasive non-native plant species shall
15 be permitted in the upland areas.
- 16 d. Repair, reconstruction modification. DRC approval shall
17 be obtained prior to any reconfiguration of the approved
18 lake or reclaimed upland area. Written approval from the
19 Director of ERM shall be obtained prior to modification
20 of the planted littoral zones.
- 21 I. Administration and Enforcement.
- 22 1. Administrative waiver from construction criteria for
23 Agricultural, WCAA, Type II and Type III excavations.
- 24 a. Authority and criteria. Administrative waivers from the
25 slope, depth, or littoral zone standards contained in
26 Sec. 7.6.H for Agricultural, WCAA, Type II, and Type III
27 excavations may be granted by ERM in accordance with the
28 standards of this Section. ERM may grant the waivers to
29 an applicant upon demonstration by a preponderance of
30 evidence, that such administrative waivers will not be
31 injurious to the area involved or otherwise detrimental
32 to the public welfare, and that special or unique
33 circumstances exist to justify the administrative
34 waivers based on one or more of the following
35 conditions:
- 36 (1) That the literal application of these standards will
37 create an unreasonable hardship and that the special
38 and unique circumstances do not result from the
39 actions of the applicant;
- 40 (2) That appropriate technology and methods will be used
41 to insure consistency with the intent of the Code;
42 or
- 43 (3) The proposed administrative waiver will not be
44 adverse to the general intent and purpose of this
45 Section.
- 46 b. Limitations. No administrative waiver shall be approved
47 for those separation items in Sec. 7.6.H.2.a., unless
48 the item specifically allows approval by ERM; nor for
49 any mining or excavation operation location which will
50 reduce hydraulic recharge distances to a public water
51 supply well in excess of two (2) percent; nor within 200
52 feet of a publicly-owned conservation area,
53 environmentally sensitive land area, or publicly-owned
54 preservation area. An administrative waiver may be
55 granted for littoral areas within a lake supporting
56 bona-fide agricultural operations. If the land use
57 changes from bona-fide agricultural use, the littoral
58 requirements for the new land use shall be required.

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1 c. Review process. The request shall be included with the
2 Notice of Intent to Construct, unless a Notice of Intent
3 to Construct has been previously approved. An
4 appropriate fee and drawings of sufficient detail shall
5 be required in order to provide the information needed
6 to determine if granting approval of the waiver is
7 appropriate. The application and drawings, excluding
8 littoral planting plans, shall be signed and sealed by a
9 professional recognized and approved by the Florida
10 Department of Professional Regulation for this type of
11 project.

- 12 (1) Upon receipt of a request to deviate from the
13 Construction Criteria, ERM shall have thirty (30)
14 days to request any additional information.
15 (2) Within thirty (30) days of receipt of the requested
16 additional information, ERM may only request
17 information needed to clarify the additional
18 information supplied or to answer new questions
19 raised by or directly related to the additional
20 information.
21 (3) If ERM does not ask for additional information
22 within thirty (30) days of receipt of the request,
23 the request shall be deemed complete upon date of
24 receipt.
25 (4) If an applicant fails to respond to a request for
26 the fee or any additional information within sixty
27 (60) days, the request may be denied without
28 prejudice. However, ERM may grant an extension of
29 time as is reasonably necessary to fulfill the
30 request for additional information. ERM action shall
31 be approval or denial, and shall be included with
32 the issued written approval of the Notice of Intent
33 to Construct.

34 2. Violations, Enforcement, and Penalties.

35 a. Violations. For each day or portion thereof, it shall be
36 a violation of this Section to:

- 37 (1) Fail to comply with a requirement of this Section,
38 Section 6.4.D.35, a condition of an approval or an
39 authorized exemption granted hereunder;
40 (2) Fail to comply with the design specifications or
41 littoral planting plan submitted with the Notice of
42 Intent to Construct for which a written approval was
43 issued by ERM.
44 (3) Alter or destroy the approved depths, slopes,
45 contours, or cross-sections;
46 (4) Chemically, mechanically, or manually remove,
47 damage, destroy, cut, or trim any plants in the
48 littoral zones, except upon written approval by the
49 Director of ERM;
50 (5) Dredge, excavate, or mine the lake or littoral zones
51 without prior receipt of approval(s) from ERM and/or
52 PZ&B; or
53 (6) Cause water quality violations in excess of the
54 standards contained in F.A.C. Chapter 62-302;
55 (7) Dewater in Type 1(A) Type 1(B); and Agricultural
56 excavations unless otherwise permitted by a State or
57 Federal permitting agency.

58 3. Enforcement. Violation of each subsection of this
59 section, any conditions of approval, or any of those

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- 1 violations listed in 2.a.(1)-(7) above, shall be deemed a
2 separate violation and may be subject to fines not to
3 exceed \$250 per day per violation. In order to enforce
4 compliance with the provisions of this section, ERM, PZ&B
5 and the County Engineer may issue a cease and desist
6 order or require that future DRC certifications be denied
7 or a building permit or C.O. be withheld. Violations of
8 the provisions of this section shall be punishable by one
9 or more of the following:
- 10 a. Quadruple permit fees shall be assessed if permits were
11 not obtained for violations involving activities which
12 would otherwise have been permissible, as determined by
13 ERM, PZ&B, or the Land Development Division.
- 14 b. This section shall be enforced through the remedies as
15 outlined in Article 14.
- 16 However, the County is not prevented from enforcing the
17 provisions of this section by any other measures allowable
18 by law, including but not limited to, Chapters 125 and 162,
19 Fla. Stat., as may be amended.
- 20 c. If the applicant has violated the provisions of this
21 Section, a condition of approval, or a provision of Sec.
22 6.4.D.35, staff may place the subject development order
23 back on a BCC agenda for re-consideration in accordance
24 with the provisions of Sec. 5.8, and Article 14 of this
25 code.
- 26 4. Restoration. Damage to upland reclamation areas, planted
27 littoral shelves, littoral plants and/or streets may
28 result in an order to restore to the approved conditions.
29 Excavation operations that have occurred without approval
30 and receipt of written approval from ERM, PZ&B or the
31 County Engineer, as applicable may result in an order to
32 restore the site or streets in the radius of impact to
33 preexisting conditions.
- 34 5. Additional remedies. In addition to the sanctions contained
35 herein, the County may take any other appropriate legal
36 action, including but not limited to, administrative action,
37 and requests for temporary and permanent injunctions, to
38 enforce the provisions of this Section.
- 39 6. Use of Collected Monies. All monies collected by ERM as
40 civil penalties for violations of this Section shall be
41 deposited in the Palm Beach County Pollution Recovery Trust
42 Fund.
- 43 7. Appeals. An applicant may appeal a final determination made
44 by:
- 45 a. Director of ERM. Appeal shall be made to the
46 Environmental Ordinance Appeals Board pursuant to this
47 Section. The applicant shall comply with the following
48 appeal procedures:
- 49 (1) Submittal. An appeal must be made within twenty (20)
50 days of the applicant's receipt of the final action.
51 (2) Hearing. Each hearing shall be held within sixty
52 (60) days of submittal of all documents which the
53 Environmental Ordinance Appeals Board deems
54 necessary to evaluate the appeal. At the conclusion
55

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1 of the hearing, the Environmental Ordinance Appeals
2 Board shall orally render its decision (order),
3 based on the evidence entered into record. The
4 decision shall be stated in a written order and
5 mailed to the applicant not later than ten (10) days
6 after the hearing. Written order of the
7 Environmental Ordinance Appeals Board shall be
8 final.

9 **b. Director of Zoning or Director of Land Development.**
10 Appeal shall be made to the appropriate appeals board as
11 provided in Sec. 5.6 (Development Review Appeals Board)
12 or Sec. 5.7 (Board of Adjustment), as applicable.

13 **c. Judicial Relief.** An applicant or ERM may appeal a final
14 written order of the Environmental Ordinance Appeals
15 Board within thirty (30) days of the rendition of the
16 written order by filing a petition for Writ of
17 Certiorari in Circuit Court of the Fifteenth Judicial
18 Circuit in and for Palm Beach County, Florida.

19 **Subpart** Section 7.8.A.11., Miscellaneous Standards, Performance
20 Standards, Drainage is amended to delete language as
21 follows:

22 ~~11. Drainage For all development in all districts, drainage~~
23 ~~shall be designed, constructed and maintained in~~
24 ~~accordance with the drainage and stormwater~~
25 ~~management standards of Article 8, Subdivision,~~
26 ~~Platting, and Required Improvements.~~

27 **Subpart** Section 7.8.D., Miscellaneous Standards, Performance
28 Standards is created as follows:

29 **D. Drainage.** For all development in all districts, drainage
30 shall be designed, constructed, and maintained in accordance
31 with the drainage and stormwater management standards of
32 Article 8, Subdivision, Platting, and Required Improvements.

33 **Subpart** Section 7.14.B., Signage, Applicability is amended to
34 add language as follows:

35 **B. Applicability.** The provisions of this section shall apply to
36 all signs unique property control number in unincorporated
37 Palm Beach County, unless specifically exempted by Sec.
38 7.14.E. (Exemptions). These regulations apply individually to
39 all parcels of land whether or not the parcels are included
40 in a development of a larger scale. All signs shall be
41 referenced in relation to the parcel of land on which it is
42 located and each parcel shall be identified by a parcel
43 control number. Any sign authorized by this section may
44 contain non-commercial copy in lieu of other copy.

45 **Subpart** Section 7.14.C.3., Signage, Effect on Previously
46 Permitted Signs, Off-premises signs is amended to add
47 language as follows:

48 **C. Effect on Previously Permitted Signs.**

49 ...

50 **3. Off-premises signs.** There shall continue to be a prohibition
51 on billboards and similar large off-premise signs in order to
52 improve the aesthetic appearance of unincorporated Palm Beach

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1 County. However, this prohibition shall not include the
2 repair, maintenance, relocation, or replacement of billboards
3 constructed consistent with applicable zoning codes and
4 building permit procedures prior to November 15, 1988, and
5 included within the billboard stipulated settlement agreement
6 and billboard survey. The Stipulated Settlement Agreement
7 referred to herein and appropriately filed in the official
8 records of the Board of County Commissioners of Palm Beach
9 County shall be a primary source of information for
10 construing and implementing the intent and purpose of these
11 amendments.

12 **Subpart** Section 7.14.F.18., Signage, Prohibited Signs is amended
13 to add and delete language as follows:

14 18. Off-premises signs, except as provided for in Sec.
15 7.14.Q-C.3., and Sec. 7.14.Q.

16 **Subpart** Section 7.14.H., Signage, Signs subject to special
17 standards and required no permit is amended to add and
18 delete language as follows:

19 **H. Signs subject to special standards and requiring no permit.**

20 1. **Temporary political sign.** A temporary political sign not
21 more than thirty-two (32) square feet, may be erected on
22 private land or in the right-of-way in any zoning district,
23 ~~for not more than sixty (60) days prior to any election, if~~
24 ~~removed within thirty (30) days after the election and~~
25 constructed so as not to create any hazardous or dangerous
26 conditions to the public, impede flow of traffic or affect
27 safe sight distances.

28 ...

29 **7. Removal of temporary signs.** All temporary signs shall be
30 removed within 30 days after completion of the event for
31 which the sign was erected.

32 **Subpart** Section 7.14.S., Signage, Billboard replacement and
33 relocation is created as follows:

34 **S. Billboard replacement and relocation.**

35 The following definitions shall be utilized for the purposes of
36 this section.

37 Billboard means a billboard structure and its attached billboard
38 faces.

39 Billboard, changeable copy sign face means a sign face containing
40 one or more advertisements or promotions that are changed
41 automatically or mechanically.

42 Billboard company means any firm, organization, or individual
43 which owns one or more billboards.

44 Billboard demolition permit means the permit issued by the
45 Building Division which allows demolition of an existing
46 billboard.

47 Billboard height shall be measured from finished grade to the
48 highest point of a billboard face, excluding temporary
49 embellishments.

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1 Billboard inventory means the official inventory, as updated by
2 the signatories to the billboard stipulated settlement agreement,
3 of billboards existing in unincorporated Palm Beach County.

4 Billboard, lawfully erected means any billboard erected in Palm
5 Beach County consistent with applicable zoning code and building
6 permit procedures and described on the official inventory
7 prepared by the Planning, Zoning and Building Department in 1988,
8 and as updated pursuant to the billboard stipulated settlement
9 agreement.

10 Billboard location means an area within a radius of not more than
11 100 feet from the location of an existing billboard structure.

12 Billboard registration permit means the annual permit issued by
13 the Zoning Division for existing billboards that can be replaced
14 or relocated.

15 Billboard relocation shall mean the removal of an existing
16 billboard structure from a billboard location included in the
17 updated billboard inventory to a different location consistent
18 with the terms of this Code and the billboard stipulated
19 settlement agreement.

20 Billboard relocation permit means the permit issued by the Zoning
21 Division which allows relocation of an existing billboard to
22 another location.

23 Billboard replacement means the removal of an existing billboard
24 structure and construction of a new billboard within the
25 permitted billboard location.

26 Billboard setback means the required minimum horizontal distance
27 between a billboard structure and all property lines.

28 Billboard sign face means the fixed or changeable portion of the
29 billboard structure upon which one or more advertising messages
30 are displayed.

31 Billboard stipulated settlement agreement means the agreement
32 between Palm Beach County, Ackerley Advertising, 3M National
33 Advertising, and any other affected parties who may agree to the
34 stipulations therein, approved on February 6, 1996 by the Board
35 of County Commissioners to terminate legal proceedings initiated
36 by Case No. 92-8752, Case No. CL92-1187-AO, Case No. 92-1187,AO,
37 and Case No. CL93-7958AH.

38 Billboard structure means all structural elements of a billboard,
39 including but not limited to structural framework and supports,
40 and lighting.

41 Billboard temporary embellishment means additional billboard area
42 attached to and extending beyond the side and top of a billboard.

43 1. Billboard inventory. Each billboard company, by March 30,
44 1996, shall provide the Zoning Division with a complete
45 inventory of all billboards such company owns or controls.
46 The billboard inventory shall be completed as provided below.

47 a. Each billboard company shall be provided with a complete copy
48 of the 1988 billboard inventory.

49 b. The 1988 billboard inventory shall be revised by each
50 billboard company to reflect the current status of billboards

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1 it owns or controls.

2 c. The revised billboard inventory shall include the location,
3 height, size, and number of billboard faces.

4 2. Billboard registration permits. The Zoning Division shall
5 establish a system of billboard registration permits. A
6 registration permit shall be issued for each billboard not to
7 be removed pursuant to the billboard stipulated settlement
8 agreement. Billboard registration permits shall be issued as
9 special permits, as provided in Section 5.5 of the ULDC.
10 Billboard registration permits shall be issued as provided
11 below.

12 a. An application for a billboard registration permit shall
13 include the following information:

14 (1) name, address, and telephone number of the billboard company
15 owning or controlling the billboard;
16 (2) name of applicant;
17 (3) agent's authorization for the applicant to act on behalf of
18 a billboard company;
19 (4) location, height, number of sign faces, and size of sign
20 faces; and
21 (5) permit number or other acceptable evidence the billboard was
22 lawfully erected.

23

24 b. Billboard registration permits shall be issued annually.

25 c. Applications for initial billboard registration permits shall
26 be submitted not later than June 30, 1997.

27 d. Billboard registration permits shall be valid for a period of
28 one year and shall be renewed annually upon compliance with
29 the terms of this section and the billboard stipulated
30 settlement agreement.

31 e. Renewals for billboard registration permits shall be
32 submitted at least sixty (60) days prior to expiration date
33 of the existing registration permit.

34 f. The County may charge a fee of \$50.00 for the issuance of
35 each billboard registration permit. This fee may be increased
36 by the Board of County Commissioners from time to time.

37 g. Billboard registration permits shall be transferrable if
38 ownership of the billboard changes.

39 h. This billboard registration system shall not require "tagging"
40 of billboards by the owner of the billboard structure.

41 3. Billboard owners not party to the stipulated settlement
42 agreement. Any firm or individual owning billboards may
43 become eligible to utilize the provisions of this Section
44 provided they execute an agreement consistent with the
45 stipulated billboard settlement agreement. Such firms or
46 individuals shall execute an agreement as approved by the
47 County Attorney's Office.

48 4. Removal of billboard sign faces. Each billboard company that
49 has signed or agreed to the stipulated billboard settlement
50 agreement, or similar agreement as approved by the County
51 Attorney, shall permanently remove at least ten percent (10%)
52 of the total of sign faces it owns or controls. Billboard

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- 1 companies that have signed the stipulated settlement
2 agreement shall remove the sign faces within one year
3 following adoption of this amendment to the ULDC. Billboard
4 companies that execute an agreement approved by the County
5 Attorney shall remove the sign faces within one year
6 following execution of the agreement.
- 7 The total amount of sign faces to be removed shall be
8 calculated utilizing the billboard inventory. The sign faces
9 shall be removed utilizing the procedure set forth below.
- 10 a. The sign faces to be removed shall be identified in Exhibit
11 "A" of the billboard stipulated settlement agreement or
12 similar agreement. However, the sign faces to be removed as
13 identified in Exhibit "A" may be substituted for reasons
14 established in the stipulated billboard settlement agreement.
- 15 b. The Building Division, with the written approval of the
16 Zoning Division, shall issue a demolition permit for each
17 sign face to be removed.
- 18 c. The demolition permit shall be in a form prepared by the
19 Zoning Division, and shall include the location, permit
20 number, name of billboard company, and date when such sign
21 face is to be removed.
- 22 d. Each billboard company shall provide a statement, in a form
23 approved by the County Attorney's Office, certifying the
24 removal of a sign face. Removal of the sign face shall
25 include the entire billboard structure.
- 26 5. Relocation of billboards. Billboards may be relocated subject
27 to the provisions of the billboard stipulated settlement
28 agreement or similar agreement. Billboard relocation shall
29 occur as indicated below:
- 30 a. A billboard company must notify the Zoning Division in
31 writing of its intent to relocate a billboard.
- 32 b. The written notification must be provided at least thirty
33 (30) days prior to the intended date of demolition and
34 relocation, unless otherwise waived by the Zoning Director.
- 35 c. Each billboard to be relocated must be assigned a billboard
36 registration permit.
- 37 d. The Zoning Division shall verify the request for relocation,
38 subject to the billboard stipulated settlement agreement.
- 39 e. Upon verification of the request for relocation, the Building
40 Division shall issue a demolition permit for removal of the
41 affected billboard.
- 42 f. For each billboard demolished, a billboard company shall
43 provide verification of the demolition. The verification
44 shall be provided in a form acceptable to the County
45 Attorney's Office.
- 46 g. Each billboard demolished subject to this section may be
47 relocated. The combination of a demolition permit and
48 assignment of a registration permit shall be deemed to be a
49 billboard relocation permit.
- 50 h. A billboard relocation permit shall be valid for a period of

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- 1 four (4) years from the issuance of the demolition permit.
- 2 i. A billboard relocation permit shall permanently lapse if
3 relocation does not occur within four (4) years following
4 issuance of the demolition permit.
- 5 i. Once a relocation permit has lapsed, the affected billboard
6 shall not be relocated.
- 7 k. A billboard relocation permit shall allow construction of a
8 billboard with the same or lesser number of faces as
9 contained on the demolished billboard. Two relocated single
10 face, single billboard structures may be combined into a new
11 two face billboard structure.
- 12 l. A relocated billboard may be constructed only within the
13 following comprehensive plan land use categories: "CH"
14 (Commercial High), "CL" (Commercial Low), or "I" (Industrial).
- 15 m. Within the "CH" (Commercial High), "CL" (Commercial Low), and
16 "I" (Industrial) future land use plan categories, a relocated
17 billboard may only be located within the following zoning
18 districts: "CG" (Commercial, General), "CC" (Community
19 Commercial), "IL" (Industrial, Light), "IG" (Industrial,
20 General), "MUPD" (Multiple Use Planned Development), and
21 "PIPD" (Planned Industrial Park District).
- 22 n. Any billboard proposed for relocation within a conditional
23 use, planned development, or similar project with an approved
24 signage plan must obtain approval for the relocation from the
25 Board of County Commissioners, which shall retain the same
26 discretion it exercised when granting the original
27 development approval. If the billboard relocation requires
28 modification of a signage plan that does not require Board of
29 County Commissioners approval, the relocation shall be
30 approved by the Development Review Committee, subject to the
31 requirements of this section and the billboard stipulated
32 settlement agreement.
- 33 o. Relocation of a billboard to a planned development district
34 shall comply with the height and setback requirements for
35 structures approved in the master plan.
- 36 p. If modification of signage located within a planned
37 development district does not require Board of County
38 Commissioners approval, such modification of signage shall be
39 approved by the Development Review Committee.
- 40 q. A relocated billboard shall not be relocated on property
41 assigned a residential, agricultural, or conservation zoning
42 designation. For the purposes of this section, residential,
43 agricultural, and conservation zoning districts shall be as
44 described in the billboard stipulated settlement agreement.
- 45 r. All relocated billboards must be located within an area
46 containing a front dimension containing at least five hundred
47 (500) linear feet. This linear dimension may include property
48 abutting a public right-of-way.
- 49 s. The height of any relocated billboard shall not exceed forty
50 (40) feet above finished grade, excluding temporary
51 embellishments.
- 52 t. A relocated billboard shall comply with the setbacks listed

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- 1 below:
- 2 (1) The following general setbacks shall apply to all relocated
3 billboards:
- 4 (a) Front: the lesser of fifteen (15) feet or the required
5 district setback.
- 6 (b) Side: the lesser of the billboard's previous setback or the
7 required district setback.
- 8 (c) Rear: the lesser of the billboard's previous setback or the
9 required district setback.
- 10 (d) Side corner: the lesser of the billboard's previous setback
11 or the required district setback. If applicable, the
12 required district side corner setback may be reduced to
13 fifteen (15) feet when the specific lot configuration makes
14 relocation of the sign structure impossible based on
15 application of the required district setback.
- 16 (2) A relocated billboard shall not be constructed within a
17 lateral distance of at least two hundred fifty (250) feet of
18 any residential zoning district located on the same side of
19 the street. The lateral distance shall be measured along the
20 street right-of-way, and shall include public rights-of-way.
21 This requirement shall supersede any other setback
22 requirements established by this section.
- 23 (3) When a relocated billboard will be constructed adjacent to a
24 public right-of-way which:
- 25 a. is designated by the County for an ultimate width of 120 feet
26 or less, and,
- 27 b. abuts a residential zoning district across the street,
28 then a residential "clear zone" must be established.
- 29 The "clear zone" must extend at least fifty (50) feet from
30 the residential zoning district line. The "clear zone" shall
31 not contain any existing residential structures. The "clear
32 zone" shall be measured from front setback of the billboard
33 to the nearest intersection of the ultimate right-of-way
34 line.
- 35 (4) When a relocated billboard will be placed on a public right-
36 of-way which:
- 37 a. is designated by the County for an ultimate width of more
38 than 120 feet but less than 170 feet, and,
- 39 b. abuts a residential zoning district across the street,
40 then a residential "clear zone" must be established.
- 41 The "clear zone" must extend at least 170 feet from the front
42 setback of the billboard. The "clear zone" shall include the
43 public right-of-way. Any portion of the "clear zone" located
44 within the abutting residential district shall not contain
45 any existing or proposed residential use.
- 46 (5) When a relocated billboard will be placed on a public right-
47 of-way which:
- 48 a. is designated by the County for an ultimate width of more
49 than 170 feet, and,
- 50 b. abuts a residential zoning district across the street, then a
51 residential "clear zone" is not required.
- 52 (6) For the purposes of this Section, a residential "clear zone"
53 may include such uses as landscaping, perimeter buffers,
54 vegetation preservation areas, drainage facilities, roads,
55 recreational areas, and similar nonresidential uses.
- 56 (7) A relocated billboard shall not be placed within 120 feet of
57 any residential zoning district located across from, but not
58 directly abutting, a public right-of-way. For the purposes

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- of this section, the 120 feet distance shall be measured from the rear of the billboard to the nearest point of the residential zoning district.
- (8) For relocated billboards, the setback shall be measured from the property line.
- u. A relocated billboard shall not be located adjacent to any public right-of-way with an ultimate width of less than eighty (80) feet.
- v. The number of billboards to be relocated during any twelve (12) month period shall be limited by the stipulated billboard settlement agreement.
- w. A minimum separation of at least 500 feet from any other existing or relocated billboard must be maintained. This required separation shall be measured along the street right-of-way.
- 6. Billboard replacement.** A replacement for an existing billboard may be constructed consistent with the provisions of this Section.
- a. A replacement billboard shall be located within the permitted billboard location.
- b. A replacement billboard shall remain on the same side of the public right-of-way.
- c. A replacement billboard may retain the lesser of the front, side, and rear setbacks of the existing billboard or the setbacks provided by the zoning district.
- d. For replacement billboards, the front setback shall be measured from the property line.
- e. A replacement billboard may be constructed at the same or lesser height of the existing billboard.
- f. The sign face or faces of the replacement billboard shall not exceed the size of the sign face or faces of the existing billboard.
- g. A replacement billboard shall contain the same number, or lesser number, of sign faces as the existing billboard.
- h. When an existing billboard is located on property that is being or has been acquired for public road right-of-way purposes, the billboard location criteria of this Section may be waived by the Zoning Director. The Zoning Director may waive the billboard location criteria when the width of the right-of-way to be acquired will not allow billboard replacement consistent with the intent of this Section.
- 7. Supplemental billboard regulations.**
- a. Roof-mounted billboards are prohibited.
- b. Billboards shall not be relocated when abutting any public right-of-way with an ultimate width of less than eighty (80) feet.
- c. The number of billboards to be relocated during any twelve (12) month period shall be limited by the stipulated billboard settlement agreement.
- d. Billboard illumination shall be directed only towards the

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- 1 billboard face.
- 2 e. Following execution of the stipulated billboard settlement
3 agreement, billboards shall be legal, conforming structures,
4 and may be repaired and maintained as provided by the
5 applicable building codes of the County. Billboards to be
6 removed by the operation of the stipulated billboard
7 settlement agreement may be repaired and maintained as legal
8 structures. However, any expenses incurred for such repair
9 and maintenance shall be the sole responsibility of the
10 billboard owner, and the County shall incur no liability for
11 such expenses.
- 12 f. Billboard registration permits may be sold, transferred, or
13 exchanged without regard to participation in the stipulated
14 billboard settlement agreement.
- 15 g. Unless otherwise provided by this Section, the maximum size
16 of the sign face of any relocated billboard or replacement
17 billboard shall not exceed the size of the sign face that is
18 being relocated or replaced. If two single face billboard
19 structures are combined into one double faced billboard, then
20 the maximum size of each of the two faces shall be no larger
21 than the size of the smaller sign face that is affected by
22 the relocation or replacement.
- 23 8. Repair and maintenance of billboards. All billboards shall be
24 maintained in good repair. Repair and maintenance of
25 billboards shall be exempt from the limitations of Section
26 1.7.B.1. of this Code. Repair and maintenance of billboards
27 shall not include any improvement which increases the height,
28 size, or number of billboard faces. Temporary embellishments
29 may be included as part of normal maintenance and repair of
30 billboards.
- 31 9. Effect of annexation.
- 32 a. Any billboard included within the billboard stipulated
33 settlement agreement that is annexed shall not be eligible
34 for relocation into any unincorporated area.
- 35 b. The billboard registration permit for any billboard included
36 within the billboard stipulated settlement agreement that is
37 annexed shall be void upon annexation.
- 38 10. Appeals. Appeals of any decision by the Zoning Division or
39 Building Division regarding interpretation or implementation
40 of this Section or the billboard stipulated settlement
41 agreement shall be made to the Board of County
42 Commissioners.
- 43 Subpart Section 9.1.A., Coastal Protection, Purpose and Intent
44 is amended to retitle section as Sea Turtle Protection
45 and Sand Preservation, reformat, incorporate language
46 from Section 9.1.E.3, Coastal Protection, Jurisdiction,
47 and add and delete language as follows:
- 48 **SEC. 9.1 COASTAL SEA TURTLE PROTECTION AND SAND PRESERVATION.**
- 49 **A. PURPOSE AND INTENT.**
- 50 The purpose of this section is to preserve and protect the
51 integrity of the coastal beach/dune system from any activity
52 which would tend to destabilize the dune or reduce the ability of

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1 the coastal beach and dune to respond naturally to storm events.
2 A naturally functioning beach/dune system is vital to the
3 protection of upland property, the control of beach erosion,
4 hurricane protection, coastal flood control and shoreline and
5 offshore rehabilitation. In addition, it is a vital physical
6 feature of the natural environment possessing outstanding
7 geological, biological, recreational and scenic value for this
8 and succeeding generations of citizens. This section is also
9 intended to reduce impacts of coastal development lighting on sea
10 turtles. This section is also intended to maintain the volume and
11 quality of sand presently existing within the beach/dune system.
12 The unique characteristics of sediments contained in the existing
13 beaches and dunes of Palm Beach County require the preservation
14 of these materials within the beach/dune system.

15 **Subpart** Section 9.1.B., Coastal Protection, Definitions is
16 amended to add, delete and reformat language as follows:
17 **B. DEFINITIONS.**

18 Terms in this section shall have the following definitions.
19 Additional terms defined in Article 3 may not apply to this
20 section.

21 1. **Alteration or materially alter** means, for the purpose of this
22 section, the removal addition, or moving of sand the removal
23 or addition of any vegetation by planting or transplanting;
24 or the destruction, pruning, cutting, or trimming of any
25 vegetation, but shall exclude the removal of trees,
26 seedlings, runners, suckers, and saplings of prohibited and
27 invasive non-native plant species identified in Section
28 7.5.H, Vegetation Preservation and Protection. It shall also
29 mean any construction, excavation or placement of a structure
30 which has the potential to affect coastal biological
31 resources, the control of beach erosion, hurricane
32 protection, coastal flood control or shoreline and offshore
33 rehabilitation. from the Sand Preservation Zone (SPZ).

34 2. ~~**Armoring** is the placement of manmade structures or devices in~~
35 ~~or near the coastal system for the purpose of preventing~~
36 ~~erosion of the beach or the upland dune system or to protect~~
37 ~~upland structures from the effects of coastal wave and~~
38 ~~current activity. Such structures include but are not limited~~
39 ~~to sea walls, bulkheads, revetments, rock rip rap, sand bags,~~
40 ~~tee scour protection and geotextile tubing. Armoring does not~~
41 ~~include structures or activities such as jetties or groins or~~
42 ~~activities whose purpose is to add sand to the beach or dune,~~
43 ~~or structures whose purpose is to alter the natural coastal~~
44 ~~currents, or to stabilize the mouths of inlets, or minor~~
45 ~~upland structures whose purpose is to retain upland fill and~~
46 ~~which are designed to be frangible under high frequency~~
47 ~~coastal hydrodynamic forces.~~

48 2.3. **Artificial light source(s)** shall mean any exterior source of
49 light emanating from a man-made device, including but not
50 limited to, incandescent, mercury vapor, metal halide or
51 sodium lamps, spotlights, flood lights, landscaping lights,
52 street lights, vehicular lights, construction or security
53 lights.

54 3.4. **Beach** means the zone of unconsolidated material that extends

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- 1 landward from the mean high water line of the Atlantic Ocean
2 to the place where there is a marked change in material or
3 physiographic form, or to the line of permanent vegetation,
4 usually the effective limit of storm waves. Beach is
5 alternately termed shore.
- 6 ~~5. Beach access point shall mean any path through or over the~~
7 ~~dune used by the general public or, with respect to private~~
8 ~~property, by the owner or with the owner's permission, for~~
9 ~~the purpose of gaining access to the beach.~~
- 10 ~~6. Beach cleaning means the clearing or burying of seaweed,~~
11 ~~debris, dead fish, or trash or the contouring of the beach by~~
12 ~~raking and leveling, provided that such activity shall not~~
13 ~~disturb existing beach or dune vegetation. Such activity~~
14 ~~shall not change the final ground elevations greater than one~~
15 ~~foot.~~
- 16 4.7. Beach compatible sand shall mean any sand that is similar to
17 the native beach and dune material in terms of grain, size,
18 distribution and color. The fill material shall consist of
19 sand that falls within the same size classification of sand
20 within the Unified Soils Classification System [i.e., fine
21 sand (0.074 to 0.42 mm), medium sand (0.42 to 2.0 mm) and
22 coarse sand (2.0 to 4.76 mm)] as that of the native beach
23 material. The acceptable silt/clay fraction (<0.074 mm) and
24 gravel/cobble fraction (>4.76 mm) shall be determined by ERM
25 based upon site conditions. Sand grain size analyses shall
26 be consistent with the grain size methodology described in
27 Folk, Robert L. 1980, *Petrology of Sedimentary Rocks*. The
28 fill material color shall match the color of the existing
29 beach and dune coloration as closely as possible.
- 30 ~~8. Beach fill means sand placed on the beach.~~
- 31 5.9. Beachfront lighting shall mean all lighting within or
32 causing illumination within the jurisdictional boundaries of
33 this section. For the purpose of this section, Coastal
34 Lighting is synonymous with Beachfront Lighting.
- 35 6.10. Board means the Board of County Commissioners
36 representing Palm Beach County.
- 37 ~~11. Coastal Protection Zone means an area of jurisdiction~~
38 ~~established by this section. This zone extends from the mean~~
39 ~~high water line of the Atlantic Ocean to a line twenty five~~
40 ~~(25) feet landward of the crest of dune or the State of~~
41 ~~Florida Coastal Construction Control Line, whichever is more~~
42 ~~landward.~~
- 43 ~~12. Coastal vegetation means all native plant species indigenous~~
44 ~~to Palm Beach County's beaches and dunes. The coastal~~
45 ~~vegetation species allowed for use are provided in this~~
46 ~~section.~~
- 47 7.13. Crest of the dune means the highest point in elevation of
48 the dune.

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- 1 **8.14.** Day means calendar day unless otherwise stated.
- 2 **9.15.** Dune means a hill or ridge of windblown sand and marine
3 deposits lying landward of, and adjacent to, the beach
4 which is formed by natural or artificial processes.
- 5 **10.16.** Dune profile means the cross-sectional configuration of
6 the dune.
- 7 **11.17.** Egg means a shelled reproductive body produced by sea
8 turtles.
- 9 ~~18. Emergency means any unusual incident which results in
10 immediate danger to the health, safety, welfare or resources
11 of the residents of the County, including damages to, or
12 erosion of, any shoreline resulting from a hurricane, storm,
13 or other such violent disturbance.~~
- 14 **12.19.** ERM means the Palm Beach County Department of
15 Environmental Resources Management.
- 16 **13.20.** Excavation means removal or displacement of soil or sand,
17 ~~or vegetation~~ by the processes not limited to ~~of~~ digging,
18 dredging, ~~cutting,~~ scooping, or hollowing out.
- 19 **14.21.** Ground-level barrier means any natural or artificial
20 structure rising above the ground which prevents
21 beachfront lighting from shining directly onto the
22 beach/dune system.
- 23 **15.22.** Hatchling means any specimen of sea turtle, within or
24 outside of a nest, which has recently hatched from an
25 egg.
- 26 ~~23. Listed Species means any species listed as endangered,
27 threatened, rare, or of special concern by one (1) or more
28 of the following agencies: (1) U.S. Fish and Wildlife
29 Service; (b) Florida Game and Fresh Water Fish Commission;
30 (d) Florida Committee on Rare and Endangered Plants and
31 Animals; (e) Florida Department of Agriculture and Consumer
32 Services; or (f) Treasure Coast Regional Planning Council.~~
- 33 **16.** Illumination means any artificial light source directly or
34 indirectly cast within the jurisdictional boundaries of this
35 section and visible from the beach.
- 36 **17.** Line of sight of beach means any position that is visible
37 from any portion of the nesting beach and is not limited to
38 a shore perpendicular direction.
- 39 ~~24. Motor vehicle includes any auto, car, van, truck, tractor,
40 motorcycle, dune buggy, moped, ATC, or other similar
41 vehicles, but excludes wheelchairs and emergency rescue
42 vehicles.~~
- 43 **18.25.** Nest means the area in which sea turtle eggs are
44 naturally deposited or relocated beneath the sediments of
45 the beach/dune system.

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- 1 ~~19.26.~~ **Nesting season** means the period from March 1 through
2 October 31 of each year.
- 3 ~~27. Peak nesting season means the period from May 1 through~~
4 ~~October 31 of each year.~~
- 5 ~~20.28.~~ **Permitted agent of the State** means any qualified
6 individual, group or organization possessing a permit
7 from the Florida Department of Environmental Protection
8 ~~(FDEP) Natural Resources (FDNR)~~ to conduct activities
9 related to sea turtle protection and conservation.
- 10 ~~21.29.~~ **Sand** means sediments having a distribution of particle
11 diameters between 0.074 and 4.76 millimeters, as defined
12 in the Unified Soils Classification System. Sand grain
13 analyses shall follow the methodology described in Folk,
14 Robert L. 1980, *Petrology of Sedimentary Rocks* to
15 determine grain size distribution.
- 16 ~~22.30.~~ ~~Sand Preservation/ Sea Turtle Protection Zone (SP/STPZ)~~
17 **Sand Preservation Zone (SPZ)** means an area of
18 jurisdiction, established by this Section, for the
19 purpose of maintaining the volume of beach sand within
20 the beach/dune system ~~as well as regulating coastal~~
21 ~~lighting.~~ This zone extends from the mean high water line
22 of the Atlantic Ocean to a line six hundred (600) feet
23 landward.
- 24 ~~23.31.~~ **Sea turtle(s)** means any specimen belonging to the species
25 *Caretta caretta* (loggerhead turtle), *Chelonia mydas*
26 (green turtle), *Dermochelys coriacea* (leatherback turtle)
27 or any other marine turtle using Palm Beach County
28 beaches as a nesting habitat or natal beach.
- 29 ~~32. Seedling, sapling, runner, or sucker means any young plant~~
30 ~~or tree in early stages of growth.~~
- 31 ~~33. Structure includes anything constructed or erected~~
32 ~~temporarily or permanently on the ground or attached to~~
33 ~~something having a permanent location on the ground and~~
34 ~~shall include houses, pools, patios, garages, gazebos, shore~~
35 ~~protection devices, pavement, signs, walls, bulkheads,~~
36 ~~fences, radio towers, or other types of construction with~~
37 ~~interior surfaces.~~
- 38 ~~24.~~ **Sea Turtle Protection Zone (STPZ)** means an area of
39 jurisdiction, established by this section, for the purpose
40 of regulating coastal lighting. This zone extends from 3
41 miles offshore of the Atlantic Ocean and along inlet
42 shorelines to a line six hundred feet (600') landward of the
43 mean high water line.
- 44 ~~25.34.~~ **Tinted glass** means any window or door glass which has:
45 (a) a visible light transmittance value of forty-five
46 (45) percent or less; and (b) a minimum of five (5) year
47 warranty; and (c) performance claims which are supported
48 by approved testing procedures and documentation. For the
49 purpose of this section Window Tint shall be synonymous
50 with Tinted Glass.
- 51 ~~-35. All definitions as provided in Rule 16B 33.002 and 16B 41,~~

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1 ~~F.A.C., of the Florida Department of Natural Resources,~~
2 ~~Rules and Procedures for Coastal Construction and Excavation~~
3 ~~are adopted as if set forth in full herein. In the event of~~
4 ~~a conflict between this Section and the adopted F.A.C., the~~
5 ~~provisions which are more stringent shall govern.~~

6 **Subpart** Section 9.1.C., Coastal Protection, Short Title and
7 Applicability is amended to add and delete language as
8 follows:

9 **C. SHORT TITLE AND APPLICABILITY.**

10 1. This section shall be known as the Palm Beach County Sea
11 Turtle Coastal Protection and Sand Preservation Standards. It
12 repeals and replaces Palm Beach County Ordinances 72-12, 78-
13 20, 87-13 and 90-2.

14 2. All provisions of this section shall be effective within the
15 unincorporated and incorporated areas of Palm Beach County,
16 Florida, and shall set restrictions, constraints and
17 requirements to preserve and protect ~~the coastal beaches,~~
18 ~~dunes, coastal vegetation,~~ sea turtles, ~~and~~ sea turtle
19 habitat and beach/dune sediments.

20 3. Palm Beach County funds for dune restoration or shore
21 protection projects in municipalities shall be contingent
22 upon this section being fully enforced or the adoption and
23 enforcement of an equally stringent or more stringent
24 ordinance by a municipality. Funding determinations shall be
25 based on ERM's review and acceptance or rejection of a
26 municipality's replacement ordinance, as well as a review of
27 permits and variances and enforcement notices issued pursuant
28 to the municipal ordinance.

29 4. This section shall apply to any coastal lighting activity
30 that has the potential to adversely impact ~~the coastal~~
31 ~~beaches, dunes and sea turtles~~ in Palm Beach County within
32 the limits of jurisdiction. This section shall also apply to
33 any sand removal or degradation that has the potential to
34 adversely impact the unique sediments which comprise the
35 coastal beach/dune system in Palm Beach County within the
36 limits of jurisdiction.

37 5. ~~This section shall be liberally construed to effect the~~
38 ~~purposed set forth herein.~~

39 **Subpart** Section 9.1.D., Coastal Protection, Authority has not
40 been amended and is included for clarity purposes.

41 **D. AUTHORITY.**

42 This section is adopted under the authority of Sec. 125.01 et
43 seq., Fla. Stat.

44 **Subpart** Section 9.1.E., Coastal Protection, Jurisdiction is
45 amended to add, delete and reformat language as follows:

46 **E. JURISDICTION.**

47 1. ERM shall have regulatory authority over coastal lighting and
48 alterations to the ~~beach/dune system beaches, dunes and~~
49 ~~coastal lighting~~. This section establishes two (2) zones of
50 jurisdiction ~~the Coastal Protection Zone and the Sand~~
51 ~~Preservation/ Sea Turtle Protection Zone the Sea Turtle~~

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- 1 Protection Zone and the Sand Preservation Zone. The Sea
2 Turtle Protection Zone extends from 3 miles offshore of the
3 Atlantic Ocean and along inlet shorelines to a line six
4 hundred feet (600') landward of the mean high water line. The
5 Sand Preservation Zone extends from the mean high water line
6 of the Atlantic Ocean to a line six hundred feet (600')
7 landward.
- 8 ~~(2) The Coastal Protection Zone is established for the purposes~~
9 ~~of protecting the integrity of the coastal beach and dune~~
10 ~~system. This zone extends from the mean high water line of~~
11 ~~the Atlantic Ocean to a line twenty five feet (25') landward~~
12 ~~of the crest of the dune or the State of Florida Coastal~~
13 ~~Construction Control Line (CCCL), whichever is more~~
14 ~~landward. In areas where the natural dune has been severely~~
15 ~~altered due to clearing, grading or armoring, a twenty five~~
16 ~~(25) foot setback shall be established from the top of~~
17 ~~armoring.~~
- 18 2.(3) The Sand Preservation/ Sea Turtle Protection Zone Sea
19 Turtle Protection Zone is established for two (2)
20 reasons. They are: (a) for the purposes of maintaining
21 the volume and quality of beach sand presently existing
22 within the beach/dune system. The unique characteristics
23 of the sediments contained in the existing beaches and
24 dunes of Palm Beach County require the preservation of
25 these materials within the beach/dune system. (b) for
26 the purpose of minimizing and controlling coastal
27 lighting. Incorporated areas of Palm Beach County which
28 have a Sea Turtle Protection Ordinance in effect shall
29 not be subject to the provisions of this section which
30 pertain to coastal lighting. The Sand Preservation/Sea
31 Turtle Protection Zone extends from mean high water of
32 the Atlantic Ocean to a line six hundred feet (600')
33 landward.
- 34 3. The Sand Preservation Zone is established for the purposes of
35 maintaining the volume and quality of beach sand presently
36 existing within the beach/dune system. The unique
37 characteristics of the sediments contained in the existing
38 beaches and dunes of Palm Beach County require the
39 preservation of these materials within the beach/dune system.
40 Incorporated areas of Palm Beach County which have provisions
41 to preserve beach/dune sediments in effect shall not be
42 subject to the provisions of this section which pertain to
43 Sand Preservation.
- 44 4. Within the limits of jurisdiction of the Coastal Sea Turtle
45 Protection Zone (STPZ) as defined in this section, no person,
46 firm, corporation, municipality, special district or public
47 agency shall install any artificial lighting without first
48 having obtained an approved Sea Turtle Protection Lighting
49 Plan from ERM as provided for in this section. Existing
50 beachfront lighting located within or causing illumination
51 within the STPZ as defined herein shall comply with Section
52 9.1 I.
- 53 ~~a. construct any structure,~~
54 ~~b. place any soil, sand or material,~~
55 ~~c. make any excavation,~~
56 ~~d. remove any existing soil, sand or beach material or otherwise~~

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1 ~~alter existing ground elevations;~~

2 ~~e. alter, damage or cause to be damaged any sand dune or coastal~~

3 ~~vegetation;~~

4 ~~f. install any artificial lighting; or~~

5 ~~g. drive any motor vehicle on, over, or across any beach or sand~~

6 ~~dune without first having obtained a permit from ERM as~~

7 ~~provided for in this section. Nothing herein shall prevent~~

8 ~~official motor vehicles of any governmental agency or~~

9 ~~permitted agent of the State from traversing any sand dune or~~

10 ~~beach in the performance of official duties, provided the~~

11 ~~vehicle operators avoid coastal vegetation whenever possible~~

12 ~~and drive as close to the low water line as possible.~~

13 5. Within the limits of jurisdiction of the Sand

14 Preservation/~~Sea Turtle Protection Zone Sand Preservation~~

15 Zone as defined in this subsection section, no person, firm,

16 corporation, municipality, special district or public agency

17 shall remove any beach or dune sediments from their property

18 or from the ~~Sand Preservation/Sea Turtle Protection Zone Sand~~

19 Preservation Zone or install any artificial lighting without

20 first having obtained a permit from ERM as provided for in

21 complying with this Section 9.1.K.

22 ~~6. Upon request, ERM shall provide a Coastal Protection Zone~~

23 ~~jurisdictional determination of a specified parcel of land.~~

24 ~~The request shall include at least three (3) topographic~~

25 ~~surveys of the subject property with a scale of 1" = 20' or~~

26 ~~less, within the property boundaries clearly marked. The~~

27 ~~survey shall include the Coastal Construction Control Line~~

28 ~~(CCCL) as well as spot elevations to the nearest one tenth~~

29 ~~foot throughout the beach dune area. At the request of ERM,~~

30 ~~the landowner may be required to provide additional~~

31 ~~elevations, directions, or access or field markings of the~~

32 ~~subject property. Such jurisdictional determinations shall be~~

33 ~~considered accurate by ERM for a period of two (2) years~~

34 ~~unless there is a change to this section, at which time the~~

35 ~~jurisdictional determination shall be considered invalid.~~

36 Subpart Section 9.1.F., Coastal Protection, Exemptions is

37 amended to delete and add language as follows:

38 **F. EXEMPTIONS.**

39 ~~1. The following activities are exempt from the permitting~~

40 ~~requirements of this section:~~

41 ~~a. The voluntary planting of native dune plants as identified on~~

42 ~~the approved plant list (Sec. 9.1.0) provided that:~~

43 ~~(1) planting which is located seaward of the existing vegetation~~

44 ~~strand occurs outside of the peak sea turtle nesting season~~

45 ~~(May 1 through October 31);~~

46 ~~(2) that no existing dune vegetation will be impacted during the~~

47 ~~course of planting, and~~

48 ~~(3) plant selection is based upon the appropriate dune zone to~~

49 ~~be revegetated (pioneer, scrub, forest);~~

50 ~~b. Minor dune enhancement projects which involve the placement~~

51 ~~of no greater than 100 cubic yards of beach compatible sand~~

52 ~~within the coastal protection zone provided that:~~

53 ~~(1) its placement area will not impact native dune vegetation,~~

54 ~~(2) the fill area is vegetated within 10 days of placement with~~

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1 approved plants (Sec 9.1.0);
2 ~~(3) construction occurs outside of the peak sea turtle nesting~~
3 ~~season (May 1 through October 31; and~~
4 ~~(4) plant selection is based upon the appropriate zone to be~~
5 ~~revegetated (pioneer, scrub, forest).~~
6 e. ~~The removal of harmful exotic vegetation provided that no~~
7 ~~native vegetation will be adversely impacted and provided~~
8 ~~that cleared areas are quickly replanted with native coastal~~
9 ~~vegetation according to the list provided in Section 9.1.0.~~
10 ~~and will be placed in appropriate natural zones on the dune~~
11 ~~profile.~~
12 d. ~~The placement of lifeguard towers on an unvegetated area of~~
13 ~~the beach outside the peak sea turtle nesting season.~~
14 e. ~~The installation of public utility transmission lines~~
15 ~~provided that such lines are designed to minimize impacts to~~
16 ~~native vegetation and occur outside the peak sea turtle~~
17 ~~nesting season. If impacts to the vegetation are unavoidable,~~
18 ~~any loss shall be replaced in kind, following utility line~~
19 ~~placement.~~

20 ~~(f) 1.~~ Those projects for which ERM determines that there will
21 be no significant environmental impacts shall be exempt
22 from obtaining a Sea Turtle Lighting Plan approval.

23 Subpart Section 9.1.G., Coastal Protection, General Permits is
24 retitled to Sea Turtle Protection Lighting Plan (STLP)
25 and is amended to delete, add and reformat language as
26 follows:

27 **G. SEA TURTLE PROTECTION LIGHTING PLAN (STLP) GENERAL PERMITS**

28 1. A Sea Turtle Lighting Plan (STLP) Approval is required for
29 all new building construction and new artificial lighting
30 proposed within the Sea Turtle Protection Zone. A STLP shall
31 be approved by ERM prior to the issuance of a building permit
32 by the Department of Planning, Zoning and Building or the
33 local building Department. General Permits are required for
34 the construction of dune walkovers, coastal vegetation
35 trimming, beach cleaning, emergency repairs, dune
36 revegetation and maintenance projects that are not otherwise
37 exempt, and minor fill projects involving the placement of
38 101 to 500 cubic yards of fill over less than 10,000 square
39 feet. General Permits shall be issued provided the proposed
40 project complies with the criteria specified in Sec. 9.1.H.
41 Applicants with proposed projects that do not meet the
42 criteria for a General Permit must apply for a Permit
43 pursuant to 9.1.I.

44 2. ~~General Permit~~ an Applications shall be made on a form
45 approved by ERM. ERM may make use of forms already in use by
46 State and/or federal agencies.

47 3.11 ERM may attach conditions to any General Permit STLP
48 approval where such conditions are deemed reasonably
49 necessary to protect sea turtles, ~~the environmental~~
50 ~~integrity of the subject site, or areas of potential impact.~~

51 4.12 Any application received that is substantially the same as a
52 previous application that has been denied by ERM shall also
53 be denied without further processing.

54 5.13 Any site or property owner that is subject to or recipient
55 of a notice of violation or notice of ~~General permit~~
56 noncompliance that remains unresolved shall not ~~to~~ be issued

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- 1 an ERM General Permit or Permit STLP approval.
- 2 ~~6.3-~~ An application STLP approval shall not be deemed complete
3 issued or processed until the application fee and any and
4 all information necessary to fully understand the extent,
5 nature, and potential impacts of a proposed project lighting
6 plan are received by ERM. Such information may include, but
7 is not limited to:
- 8 a. a completed application form;
- 9 b. an explanation of the necessity and purpose of the project
10 proposed lighting;
- 11 ~~c.- a description of construction techniques and schedules-~~
- 12 ~~c.d-~~ photographs of existing conditions which may include aerial
13 photographs;
- 14 ~~d.e-~~ plans showing profile and plan views including depicting all
15 light fixture locations, the elevations of proposed and
16 existing structures, proposed and existing vegetation,
17 beach/dune profiles and pertinent topographic information.
18 dune and vegetation;
- 19 ~~f.- sediment analysis of existing dune and beach and any proposed~~
20 ~~fill material-~~
- 21 ~~4.- When an application is made for work in common areas of a~~
22 ~~multi family residential site (i.e., condominiums,~~
23 ~~apartments, townhouses, villas, etc.) the representative~~
24 ~~association, or all of the homeowners as a group, shall be~~
25 ~~the applicant. ERM shall not process an application made by~~
26 ~~one unit owner in a multi family setting where the work is~~
27 ~~proposed on lands designated as, or can reasonably be~~
28 ~~considered to be, common areas-~~
- 29 ~~5- Upon receipt of an application and appropriate application~~
30 ~~fee, ERM shall have twenty (20) days to request any~~
31 ~~additional information pursuant to Sec. 9.1.G.3 above-~~
- 32 ~~6.- If ERM does not make a request for additional information~~
33 ~~within twenty (20) days of receipt of an application and~~
34 ~~appropriate application fee or requested information, the~~
35 ~~application shall be deemed complete upon receipt-~~
- 36 ~~7- Failure to respond to an ERM request for additional~~
37 ~~information within sixty (60) days may result in the~~
38 ~~application being denied without prejudice. However, ERM may~~
39 ~~grant an extension of time as is reasonably necessary to~~
40 ~~fulfill a request for additional information-~~
- 41 ~~8.- Upon receipt of a completed application and fee, ERM shall~~
42 ~~have forty five (45) days to take final action unless the~~
43 ~~applicant agrees in writing to a time extension or waiver of~~
44 ~~this requirement. Final agency action shall be General Permit~~
45 ~~issuance, conditional General Permit issuance, or notice of~~
46 ~~inapplicability under the General Permit criteria-~~
- 47 ~~9.- Any General Permit application containing false information~~
48 ~~may be rejected and any General Permit issued based upon~~
49 ~~false information may be revoked-~~
- 50 ~~10.- General Permits may be issued by ERM with a duration of one~~

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1 ~~(1) year with annual renewal conditioned upon General Permit~~
2 ~~compliance.~~

3 ~~11. ERM may attach conditions to any General Permit where such~~
4 ~~conditions are deemed reasonably necessary to protect sea~~
5 ~~turtles, the environmental integrity of the subject site, or~~
6 ~~areas of potential impact.~~

7 ~~12. Any application received that is substantially the same as a~~
8 ~~previous application that has been denied by ERM shall also~~
9 ~~be denied without further processing.~~

10 ~~13. Any site or property owner that is subject to or recipient~~
11 ~~of a notice of violation or notice of General permit~~
12 ~~noncompliance that remains unresolved shall not to be issued~~
13 ~~an ERM General Permit or Permit.~~

14 ~~14 Any substantial modification to a complete application, or to~~
15 ~~an issued General Permit, shall require an amended~~
16 ~~application form and an additional application fee pursuant~~
17 ~~to Sec. 9.1.M and shall restart the time periods of this~~
18 ~~subsection.~~

19 ~~15 The provisions of this subsection shall not apply to~~
20 ~~structures, plantings, and alterations existing or under~~
21 ~~construction as of February 2, 1990 provided, however, that~~
22 ~~such existing structures and those structures under~~
23 ~~construction, are not expanded beyond the specification of~~
24 ~~their respective plans existing and approved as of this~~
25 ~~effective date of the section.~~

26 **Subpart** Section 9.1.H., Coastal Protection, Criteria for
27 Issuance of a General Permit is deleted in its entirety
28 except for Section 9.1.H.2.a.(6) Coastal Protection,
29 Criteria for Issuance of a General Permit, Dune
30 Walkovers, Information Sign Requirements, which is being
31 relocated to Section 9.1.J., Coastal Protection,
32 Criteria for Issuance of a Permit, and Section 9.1.H.,
33 Coastal Protection, Criteria for Issuance of a General
34 Permit is retitled as Criteria for Sea Turtle Lighting
35 Plan Approval found below.

36 **~~H. CRITERIA FOR ISSUANCE OF A GENERAL PERMIT.~~**

37 ~~1. A general permit shall be issued pursuant to this section~~
38 ~~provided that the applicant provides to ERM reasonable~~
39 ~~assurance that the following criteria will be met:~~

40 ~~a The applicant must demonstrate with adequate engineering data~~
41 ~~that the proposed project will not adversely affect the~~
42 ~~natural exchange of sand within the beach/dune system, the~~
43 ~~control of beach erosion, and the level of storm protection.~~

44 ~~b. The proposed project does not adversely impact the stability~~
45 ~~of the dune.~~

46 ~~c There shall be no net loss of sand from the Sand~~
47 ~~Preservation/Sea Turtle Protection Zone. Sand temporarily~~
48 ~~excavated from the Sand Preservation/Sea Turtle Protection~~
49 ~~Zone shall be returned to the Sand Preservation/Sea Turtle~~
50 ~~Protection Zone prior to the expiration date of the permit.~~
51 ~~In addition, the sand may not be degraded by mixing with any~~
52 ~~sediment, soil, or material, such that it will not meet the~~
53 ~~definition for beach compatible sand as defined.~~

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- 1 d. ~~The proposed project will not adversely impact the~~
2 ~~conservation of wildlife or their habitats with special~~
3 ~~emphasis placed upon the protection of listed species.~~
- 4 e. ~~Project alternatives and modifications to lessen impacts have~~
5 ~~been determined to be infeasible.~~
- 6 f. ~~The project is not in contravention with any other federal,~~
7 ~~state or local designated preserve, conservation or~~
8 ~~mitigation area.~~
- 9 g. ~~ERM determines that the cumulative impacts of the subject~~
10 ~~project and other similar projects will also meet the~~
11 ~~criteria of this section.~~
- 12 h. ~~Any and all light fixtures shall be designed to be the~~
13 ~~minimum level necessary for safety and will be positioned~~
14 ~~such that they do not cause illumination (direct or indirect)~~
15 ~~of areas seaward of the existing seawall or crest of dune and~~
16 ~~the source of light is not directly visible from the beach.~~
- 17 i. ~~There shall be no adverse impacts to sea turtles, sea turtle~~
18 ~~nesting and sea turtle habitat. Measures that may be~~
19 ~~implemented to protect sea turtles include:~~
20 ~~(1) Design and placement of structures to minimize impacts;~~
21 ~~(2) Scheduling construction to occur outside peak nesting~~
22 ~~season;~~
23 ~~(3) Daily nesting surveys allowing nests to be marked and~~
24 ~~avoided during construction; or~~
25 ~~(4) Elimination or alternation of all proposed or existing~~
26 ~~exterior lights that cause direct or indirect illumination~~
27 ~~of areas seaward of the existing crest of dune or which are~~
28 ~~visible from the beach.~~
- 29 j. ~~The proposed project is in accordance with Rule 16B-33.005,~~
30 ~~F.A.C., Florida Department of Natural Resources (FDNR) Rules~~
31 ~~and Procedures for Coastal Construction and excavation. In~~
32 ~~the event of a conflict between this section and the F.A.C.,~~
33 ~~the provisions which are more stringent shall govern.~~
- 34 k. ~~The proposed project is in accordance with Rule 16B-33.007,~~
35 ~~F.A.C., Rules and Procedures for Coastal Construction and~~
36 ~~excavation. In the event of a conflict between this section~~
37 ~~and the adopted F.A.C., the provisions which are more~~
38 ~~stringent shall govern.~~
- 39 l. ~~ERM staff shall consider the FDNR Policy Memoranda (PM) 1-32~~
40 ~~when evaluating coastal permit applications.~~
- 41 2. ~~In addition to the foregoing general criteria, a general~~
42 ~~permit shall not be issued for the following specific~~
43 ~~activities unless and until the following specific criteria~~
44 ~~have been met:~~
- 45 a. ~~Dune Walkovers. When issuing permits for dune walkovers, ERM~~
46 ~~shall require that:~~
47 ~~(1) Privately owned structures shall not exceed four (4) feet in~~
48 ~~walkway width.~~
49 ~~(2) Publicly owned structures or those serving multi family~~
50 ~~residences or resorts shall not exceed eight (8) feet in~~
51 ~~width.~~
52 ~~(3) The walkover shall be located in an area that will ensure~~
53 ~~minimal disturbance to existing native vegetation.~~

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- 1 Construction activity shall disturb the minimum amount of
2 vegetation with preference given to preserving scrub and
3 forest-zone vegetation and in no case shall such disturbance
4 exceed the width of the permitted walkover.
5 (4) ~~The slope of the walkover shall match the slope of the dune~~
6 ~~as closely as possible while still meeting applicable~~
7 ~~building codes for stairs.~~
8 (5) ~~Construction which has potential impacts to sea turtle~~
9 ~~nesting shall occur only between November 1 and April 30.~~
- 10 **~~b. Coastal Vegetation Trimming~~**
- 11 In order to create visual corridors between upland properties and
12 the ocean, coastal vegetation may be trimmed on an annual basis.
13 The objective of these criteria is to provide for these visual
14 corridors without having a negative impact upon the beaches,
15 dunes and native dune ecosystems. No coastal vegetation trimming
16 shall be permitted if it results in additional lights being
17 visible from the beach or exposure of salt sensitive coastal
18 hammock vegetation to increased salt spray. Coastal vegetation
19 trimming projects shall comply with the following criteria:
- 20 (1) ~~Reducing height of sea grapes.~~ Sea grape trees may be
21 permitted to be maintained to ten (10) feet in height. For
22 trees greater than ten (10) feet in height, the sea grape
23 will not be reduced greater than twenty five (25) percent
24 per year to a height of ten (10) feet. If the height of sea
25 grapes is reduced, no windows shall be permitted under the
26 trimmed canopy.
27 (2) ~~Viewing windows.~~ Viewing corridor "windows" may be trimmed
28 through sea grapes provided they meet the following
29 criteria:
30 (a) ~~No "window" may be over twenty (20) feet in length.~~
31 (b) ~~All "windows" shall be separated by a minimum of twenty (20)~~
32 ~~feet of untrimmed dune vegetation.~~
33 (c) ~~"Windowing" shall not comprise more than twenty percent~~
34 ~~(20%) of the property frontage.~~
35 (d) ~~The maximum height of any "window" shall be eight (8) feet~~
36 ~~(as measured from the landward side of the sea grape stand).~~
37 (e) ~~Only branches less than one (1) inch in diameter may be~~
38 ~~trimmed.~~
39 (f) ~~All sea grapes shall retain a minimum four (4) feet canopy~~
40 ~~after trimming (as measured from the landward side of the~~
41 ~~sea grape stand).~~
42 (g) ~~Sea grapes shall be a minimum of eight (8) feet in height~~
43 ~~(as measured from the landward side of the sea grape stand)~~
44 ~~before "window" trimming will be considered.~~
45 (h) ~~Where "windowing" occurs no hedging will be permitted.~~
46 (3) ~~Freeze damaged sea grapes.~~ Freeze damaged sea grapes may be
47 trimmed for aesthetic reasons. However, ERM general permits
48 for such alteration shall be subject to the following
49 conditions:
50 (a) ~~ERM shall not consider a request to trim freeze damaged sea~~
51 ~~grape until October 1, following the freeze event.~~
52 (b) ~~Freeze damaged sea grape shall not be reduced by more than~~
53 ~~fifty (50) percent of the original height and in no case~~
54 ~~shall the height be reduced lower than four (4) feet above~~
55 ~~the ground elevation.~~
56 (c) ~~Freeze damaged sea grape may be altered by removing dead~~
57 ~~wood no closer than one (1) foot from live material, in no~~
58 ~~case to exceed the specifications of Sec. 9-1.H.2.b.~~
59 (d) ~~Branches removed shall be chipped and left on the dune.~~

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- 1 ~~c. Beach Cleaning Activity. Routine raking of seaweed and other~~
2 ~~natural debris is strongly discouraged because of the role it~~
3 ~~plays in dune formation, beach stabilization and as a food~~
4 ~~source for birds and invertebrates that inhabit the coastal~~
5 ~~zone. Beach cleaning activities should target and be designed~~
6 ~~for the removal of man created trash and litter.~~
- 7 ~~(1) Beach cleaning equipment will be permitted on the beach~~
8 ~~provided that mechanized equipment is not used within~~
9 ~~fifteen (15) feet of any existing coastal vegetation.~~
10 ~~Existing coastal vegetation specifically includes isolated~~
11 ~~patches of pioneer plants and seedlings.~~
- 12 ~~(2) Naturally occurring organic debris such as seaweed shall be~~
13 ~~left on the beach. The debris may be either left in place or~~
14 ~~raked into piles. Outside of peak sea turtle nesting season,~~
15 ~~the piles may be buried in a continuous line along the beach~~
16 ~~or placed at the base of an unvegetated dune scarp provided~~
17 ~~that mechanized equipment is not used within fifteen (15)~~
18 ~~feet of the toe of the dune or within fifteen (15) feet of~~
19 ~~any existing vegetation. During peak sea turtle nesting~~
20 ~~season, debris must be left at or below the previous high~~
21 ~~tide mark. Trash and litter, such as plastics, shall be~~
22 ~~removed from the beach and properly disposed of at a~~
23 ~~resource recovery facility or recycling center. Raked debris~~
24 ~~shall not be placed on adjacent property without permission~~
25 ~~from the adjacent property owner.~~
- 26 ~~(3) Equipment, methodologies and points of access shall be~~
27 ~~consistent with beach dune preservation policies established~~
28 ~~by Palm Beach County and the State.~~
- 29 ~~(4) Beach cleaning shall be confined to daylight hours.~~
- 30 ~~(5) During the peak nesting season (May 1 through October 31):~~
- 31 ~~(a) Beach cleaning operations shall be limited to the wrack line~~
32 ~~(previous high tide mark) or below.~~
- 33 ~~(b) Light weight motorized vehicles having wide, low profile,~~
34 ~~low pressure tires shall be used to conduct beach cleaning~~
35 ~~operations instead of heavy equipment.~~
- 36 ~~(c) Devices used for removing debris from the beach shall be~~
37 ~~designed and/or operated such that they do not penetrate~~
38 ~~beach sediments by more than two (2) inches.~~
- 39 ~~(d) Access for beach cleaning equipment is restricted to access~~
40 ~~points approved by ERM.~~
- 41 ~~d. Emergency Repairs. An emergency repair may be authorized~~
42 ~~where the proposed construction is necessary to prevent the~~
43 ~~imminent collapse of a structure, or where the proposed~~
44 ~~construction is for placement of sand fill or sand filled~~
45 ~~bags and a structure which constitutes a human hazard. ERM~~
46 ~~staff shall conduct an on-site inspection and an evaluation~~
47 ~~prior to authorizing any emergency repair.~~
- 48 ~~e. Dune Restoration. When issuing general permits for dune~~
49 ~~restoration (101 to 500 cubic yards over 10,000 square feet~~
50 ~~or less), ERM shall require that:~~
- 51 ~~(1) All plants used for restoration plantings must be selected~~
52 ~~from the Approved Plant List, Section 9.1.0. ERM may approve~~
53 ~~additional species on the list that can be documented to be~~
54 ~~local native coastal species.~~
- 55 ~~(2) Plants shall be selected according to vegetation community~~
56 ~~being restored: pioneer zone, scrub zone or forest zone.~~
- 57 ~~(3) Temporary irrigation systems may be installed, but must be~~
58 ~~placed above the ground and removed or disconnected from the~~
59 ~~water source within six (6) months of the completion of~~
60 ~~planting.~~

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1 **Subpart** Section 9.1.I., Coastal Protection, Permits is deleted
2 in its entirety, except for Sections 9.1.I.3.i., Coastal
3 Protection, Permits, Light and Window Tinting
4 Information, and Section 9.1.I.5-15, Coastal Protection,
5 Permits, which are being incorporated into 9.1.G,
6 Coastal Protection, General Permits, above and Section
7 9.1.I, Coastal Protection, Permits, is retitled to
8 Standards for Existing Beach Front Lighting found below.

9 **~~I. PERMITS.~~**

10 ~~1. Any activity described in Sec. 9.1, 9.2 not qualifying for a~~
11 ~~General Permit (Sec. 9.1.G) shall require a permit by ERM,~~
12 ~~unless specifically exempted by this section.~~

13 ~~2. Permit applications shall be made on forms approved by ERM.~~
14 ~~ERM may make use of forms already in use by state and/or~~
15 ~~federal agencies.~~

16 ~~3. An application shall not be deemed complete until the~~
17 ~~application fee and any and all information necessary to~~
18 ~~fully understand the extent, nature, and potential impacts of~~
19 ~~a proposed project are received by ERM. Such information may~~
20 ~~include, but is not limited to:~~

21 ~~a. A completed application form.~~
22 ~~b. An explanation of the necessity and purpose of the project.~~
23 ~~c. A description of construction techniques and schedules.~~
24 ~~d. Photographs of existing conditions which may include aerial~~
25 ~~photographs.~~
26 ~~e. Plans showing profile and plan views including elevations of~~
27 ~~the proposed structure, dune and vegetation.~~
28 ~~f. Sediment analysis of existing dune and beach and any proposed~~
29 ~~fill material.~~
30 ~~g. Engineering models and predictions.~~
31 ~~h. Biological evaluation of the proposed project site.~~

32 ~~e.i Light and Window Tinting Information.~~ Electrical, building
33 and landscape plans shall be submitted illustrating for all
34 exterior lights and windows within line of sight of the
35 beach ~~in unincorporated Palm Beach County and in~~
36 ~~municipalities that do not have a sea turtle protection~~
37 ~~ordinance in effect.~~ Light and window tinting information
38 shall include:

39 (1) The location, number, wattage, elevation, orientation,
40 fixture cut sheets, photometric illustrations and all
41 type(s) of proposed artificial light sources floodlights,
42 ~~spotlights, and other fixtures discharging lighting.~~
43 ~~(2) The location, number, wattage, elevation, orientation,~~
44 ~~fixture cut sheets and type of all other Artificial light~~
45 ~~sources shall include, but are not limited to, floodlights,~~
46 ~~spotlights, temporary security lights, those used on~~
47 balconies, walkways, recreational areas, roadways, parking
48 lots, dune crossovers, decks, boardwalks and signs.
49 (2) Protective/mitigative measures to minimize lighting impacts
50 on sea turtles, including measures to prevent direct and
51 indirect illumination of areas seaward of the crest of the
52 dune.
53 (3) Window tinting specifications for all windows and doors
54 within line of sight of the beach including percentage of
55 visible light transmittance (see definition of tinted
56 glass).

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1 ~~j For projects constructed during the peak sea turtle nesting~~
2 ~~season, the additional information may also be required.~~

3 ~~(1) A schedule of proposed construction periods.~~
4 ~~(2) The number of lineal feet of shoreline seaward of the dune~~
5 ~~upon which construction will occur.~~
6 ~~(3) The number and type of vehicles anticipated during~~
7 ~~construction, the type of equipment and materials to be used~~
8 ~~seaward of the dune, and the location of beach access points~~
9 ~~to be used in moving equipment and materials to and from the~~
10 ~~construction site.~~
11 ~~(4) The location, number, wattage, elevation and orientation,~~
12 ~~and type of temporary nighttime security lights.~~
13 ~~(5) Protective/mitigative measures to minimize construction~~
14 ~~impacts on sea turtles.~~
15 ~~(6) Name and PDNR turtle permit number of person responsible for~~
16 ~~implementing protective measures.~~

17 4. ~~Notification of Affected Parties.~~ When an application is made
18 for work that has the potential to affect shoreline erosion
19 and environmental protection on adjacent properties, it shall
20 be the responsibility of the applicant to notify in writing
21 and provide a copy of the application, to owners of all
22 properties adjacent to the property containing the proposed
23 project or within three hundred (300) feet of the proposed
24 project for which a permit is requested. Where the adjacent
25 property is a multi-family residential site (i.e.,
26 condominiums, apartments, townhouses, villas, etc.), the
27 representative association or all of the homeowners as a
28 group shall be notified. The notification must also be
29 submitted in a format approved by ERM. However, where the
30 property for which the permit is sought is part of, or
31 adjacent to, property owned by the same person, the three
32 hundred (300) foot distance shall be measured from the
33 boundaries of the entire ownership, except that notice need
34 not be mailed to any property owner located more than one
35 half mile (2,640 feet) from the property for which the permit
36 is sought. For the purposes of this requirement, the names
37 and addresses of property owners shall be deemed those
38 appearing on the property appraiser's records of Palm Beach
39 County. Issues pertaining to this section related to
40 shoreline erosion and environmental protection that are
41 raised by notified property owners will be addressed by ERM
42 during the evaluation of application completeness. Notified
43 property owners must submit comments within thirty (30) days
44 of notification to be considered.

45 7.5 When an application is made for work a STLP approval in
46 common areas of a multi-family residential site (i.e.,
47 condominiums, apartments, townhouses, villas, etc.), the
48 representative association, or all of the homeowners as a
49 group, shall be the applicant. ERM shall not process an
50 application made by one (1) unit owner in a multi-family
51 setting where the work is proposed on lands designated as,
52 or can reasonably be considered to be, common areas.

53 8.6- Upon receipt of an application and appropriate application
54 fee, ERM shall have thirty (30) days to request any
55 additional information pursuant to Sec. 9.1.1.3 above.
56 Within thirty (30) days of receipt of such additional
57 information, ERM may request only that information needed to
58 clarify such additional information or to answer new
59 questions raised by, or directly related to, such additional
60 information. ERM may begin processing an application in the

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1 ~~absence of the appropriate application fee. However, No time~~
2 ~~clocks of this subsection shall begin until the appropriate~~
3 ~~application fee is received.~~

4 9.7 If ERM does not make a request for additional information
5 within thirty (30) days of receipt of an application or
6 requested information, the application shall be deemed
7 complete upon receipt.

8 10.8 If an applicant fails to respond to an ERM request for an
9 application fee, or any additional information, within sixty
10 (60) days, the application may be denied without prejudice.
11 However, ERM may grant an extension of time as is reasonable
12 necessary to fulfill the request for additional information.

13 11.9 Upon receipt of a completed application and fee, ERM shall
14 have ninety (90) days to take final action unless the
15 applicant agrees in writing to a time extension or waiver of
16 this requirement. Final agency action shall be ~~permit~~
17 ~~issuance approval of a STLP, permit denial of a STLP, or~~
18 ~~conditional permit issuance approval of STLP.~~ Failure by ERM
19 to take final action within ninety (90) days shall result in
20 the authorization of the proposed work with standard
21 limiting conditions.

22 12.10 Any application containing false information may be
23 rejected and any ~~permit issued STLP approval granted~~
24 based upon false information may be revoked.

25 13.11 ERM ~~permits~~ STLP approvals may be issued with a duration
26 period that is reasonably necessary to complete the
27 project not to exceed five (5) years. ~~Permits for~~
28 ~~mechanical beach cleaning or vegetation alteration~~
29 ~~activities shall be issued on an annual, renewable basis.~~

30 14.12 ERM may attach conditions to any ~~permit~~ STLP approval
31 where such conditions are deemed reasonably necessary to
32 protect sea turtles. ~~the environmental integrity of the~~
33 ~~subject site or areas of potential impact.~~

34 15.13 Any application received that is substantially the same
35 as a previous application that has been denied by ERM
36 shall also be denied without further processing.

37 16.14 Any site or property owner that is subject to or
38 recipient of a notice of violation or notice of ~~permit~~
39 noncompliance issued by ERM that remains unresolved shall
40 not be issued an ERM ~~permit~~ STLP approval.

41 17.15 Any substantial modification to a compete application, or
42 ~~to an issued permit a STLP approval,~~ shall require an
43 amended application form and an additional application
44 fee ~~pursuant to Sec. 9.1.M~~ and shall restart all time
45 periods of this subsection.

46 **Subpart** Section 9.1.J., Coastal Protection, Criteria for
47 Issuance of a Permit is relettered as Section 9.1.H. and
48 is retitled to Criteria for Sea Turtle Lighting Plan
49 Approval and is amended to add, delete and reformat
50 language.

51 **H.J- CRITERIA FOR SEA TURTLE LIGHTING PLAN APPROVAL ISSUANCE OF A**
52 **PERMIT.**

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- 1 1. A ~~permit~~ STLP approval may be issued pursuant to this section
2 provided that the applicant provides to ERM reasonable
3 assurance that there shall be no adverse impacts to sea
4 turtles, sea turtle nesting and sea turtle habitat and that
5 the following criteria will be met:
6 a. ~~The applicant must demonstrate with adequate engineering data~~
7 ~~that the proposed project will not adversely affect the~~
8 ~~natural exchange of sand within the beach/dune system, the~~
9 ~~control of beach erosion, and the level of storm protection.~~
10 b. ~~The proposed project does not adversely impact the stability~~
11 ~~of the dune.~~
12 c. ~~There shall be no net loss of sand from the Sand~~
13 ~~Preservation/Sea Turtle Protection Zone. Sand temporarily~~
14 ~~excavated from the Sand Preservation/Sea Turtle Protection~~
15 ~~Zone shall be returned to the Sand Preservation/Sea Turtle~~
16 ~~Protection Zone prior to the expiration date of the permit.~~
17 ~~In addition, the sand may not be degraded by mixing with any~~
18 ~~sediment, soil, or material that is not approved by ERM.~~
19 d. ~~The proposed project will not adversely impact the~~
20 ~~conservation of wildlife or their habitats with special~~
21 ~~emphasis placed upon the protection of listed species.~~
- 22 a.h Any and all light fixtures shall be designed to be the
23 minimum level necessary for safety and will be positioned
24 such that they do not cause illumination (direct or
25 indirect) of areas seaward of the existing seawall or crest
26 of dune and the source of light is not directly visible from
27 the beach.
- 28 b.e ~~Project ERM determines that coastal lighting alternatives~~
29 ~~and modifications to lessen impacts have been determined to~~
30 ~~be are infeasible.~~
- 31 ~~f. The project is not in contravention with any other federal,~~
32 ~~state or local designated preserve, conservation or~~
33 ~~mitigation area.~~
- 34 c.g ~~ERM determines that the cumulative impacts of the subject~~
35 ~~lighting project and other similar lighting projects will~~
36 ~~also meet the criteria of this section.~~
- 37 ~~i There shall be no adverse impacts to Sea Turtles, Sea Turtle~~
38 ~~nesting and Sea Turtle habitat.~~
- 39 2. Measures that may be implemented to protect sea turtles
40 include:
41 ~~(1) Design and placement of structures to minimize impacts;~~
42 ~~(2) Scheduling construction to occur outside peak nesting~~
43 ~~season;~~
44 ~~(3) Daily nesting surveys allowing nests to be marked and~~
45 ~~avoided during construction; or~~
46 ~~(4) elimination, modification or alteration of all proposed~~
47 ~~and/or existing exterior lights that cause direct or~~
48 ~~indirect illumination of areas seaward of the existing crest~~
49 ~~of dune or which are visible from the beach.~~
- 50 ~~(5) Exterior light and windows.~~
- 51 3.(a) ~~Standards For New Beachfront Lighting.~~ All lighting
52 installed after September 2, 1987 in unincorporated Palm
53 Beach County and in municipalities that do not have a sea
54 turtle protection ordinance in effect shall comply with
55 the following standards:
- 56 a.1 ~~General Prohibition.~~ No artificial public or private light
57 source shall directly or indirectly illuminate areas seaward

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of the crest of the dune or be visible from the beach where it may deter adult female sea turtles from nesting or disorient hatchlings.

b.2) ~~Permanent Lighting.~~ The installation of ~~permanent coastal~~ lighting shall reflect the standards and mitigative measures published in one of the current state-of-the-art manuals pertaining to coastal lighting and sea turtle conservation available at ERM (Raymond, Paul W., *Sea Turtle Hatchling Disorientation and Beachfront Lighting: A Review of the Problem and Potential Solutions*, Washington, (D.C.), Center for Environmental Education, 1984) or (Witherington, Blair E. & Martin, Eric R., *Understanding, Assessing and Resolving Light-pollution Problems on Sea Turtle Nesting Beaches*, Florida Marine Research Institute Technical Report, Florida Department of Environmental Protection, 1996).

~~3) Reference Availability.~~ ~~ERM shall make a copy of the Raymond manual available for review. As design and/or performance standards are developed or upgraded and become available, ERM may provide additional references.~~

~~c4)(a). Controlled Use, Design and Positioning of Lighting.~~

a) Any and all light fixtures shall be designed and/or positioned such that they do not cause direct or indirect illumination of areas seaward of the crest of the dune and the source of light is not directly visible from the beach.

d.b) All lights on balconies shall be eliminated or shielded from the beach. Proposed balcony lights which do not meet standard 3a. shall not be authorized.

~~e) High intensity lighting for signs, decorative or accent purposes which does not meet standard 4a) shall not be permitted within the zone of jurisdiction.~~

e. Artificial lighting for decorative or accent purposes and uplights shall not be authorized within the zone of jurisdiction.

f. Lighting used in parking lots within the STPZ five hundred (500) feet of the mean high water line shall be:

(1)(i) Set on a base which raises the source of light no higher than forty-eight (48) inches off the ground.

(2)(ii) Positioned and/or shielded such that the source of light is not visible from the beach.

g. Sign lighting may be authorized provided it illuminates an area less than 15 square feet and meets the criteria of standard 3a.

~~4.5) Installation of Tinted Glass or Window Tint.~~ Tinted glass or any window film applied to window glass which meets the shading defined criteria for tinted glass, shall be installed on all windows and doors within line of sight of the beach.

~~5.6) Beachfront Lighting Approval.~~ Prior to the issuance of a Certificate of Occupancy by the Department of Planning, Zoning and Building or local building department, each facility shall be inspected for compliance as follows:

a) Upon completion of the construction activities, a Florida

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- 1 registered: architect, landscape architect, environmental
2 professional or professional engineer shall conduct a site
3 inspection which includes a night survey with all the
4 beachfront lighting turned on.
- 5 b) The inspector shall prepare and report the inspection finding
6 in writing to ERM, identifying:
7 ~~(1) i)~~ The date and time of initial inspection.
8 ~~(2) ii)~~ The extent of compliance with this section and the
9 approved STLP.
10 ~~(3) iii)~~ All areas of potential and observed noncompliance with
11 this section.
12 ~~(4) iv)~~ Any action(s) taken to remedy observed noncompliance and
13 date remedy will be implemented, if applicable.
14 ~~(5) v)~~ The date(s) and time(s) of remedial inspection(s), if
15 applicable
- 16 c) The inspector shall sign and seal the inspection report which
17 includes a certification that:
18 ~~(1) i)~~ The beachfront lighting has been constructed in
19 accordance with this section.
20 ~~(2) ii)~~ The inspector observed the project area at night with
21 all lights operating.
22 ~~(3) iii)~~ The beachfront lighting does not directly or indirectly
23 illuminate areas seaward of the crest of the dune at the
24 time of the night inspection.
25 ~~(4) iv)~~ The beachfront light sources within the jurisdictional
26 boundaries are not directly or indirectly visible from
27 the beach at the time of the night inspection.
28 ~~(5)~~ Any signed and sealed inspection report containing false
29 information shall be a violation of this section.
- 30 **Subpart** Section 9.1.J.1.(5) (b). Coastal Protection, Criteria for
31 Issuance of a Permit, Exterior Light and Windows,
32 Standards for Existing Beachfront Lighting is retitled
33 to Section 9.1.I. and is amended to add, delete and
34 reformat language as follows:
- 35 ~~(b) I.~~ **STANDARDS FOR EXISTING BEACHFRONT LIGHTING**
- 36 ~~Standards for Existing Beachfront Lighting.~~ Existing beachfront
37 lighting shall comply with the following conditions by April 1,
38 1988.
- 39 1) **Adjustment to Essential Lighting.** Existing artificial light
40 sources shall ~~be repositioned, modified or replaced with~~
41 ~~modern alternatives so that the source of light is not be~~
42 ~~directly visible from the beach and/or does shall not~~
43 ~~directly or indirectly illuminate areas seaward of the crest~~
44 ~~of dune. This may be accomplished by following the~~
45 recommended corrective action as listed in I.6. In some
46 cases, it may be desirable to retrofit fixtures and install
47 low pressure sodium vapor lights producing wavelengths
48 between 589 and 590 nanometers. Modifications using low
49 pressure sodium lighting shall be coordinated with ERM.
50 Techniques and/or materials used are recommended to be ~~shall~~
51 ~~be consistent with the Raymond current state-of-the-art~~
52 ~~lighting manual referenced in Section 9.1.J.1.i(5)(a) and~~
53 ~~other~~ reference manuals identified by ERM.
- 54 2) **Reduction of Indirect Lighting on the Beach.** The installation
55 of ground level barriers including dense native vegetation is
56 strongly encouraged and may be required to reduce the amount

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- 1 of indirect lighting striking the beach-dune system.
- 2 3) **Lighting for Pedestrian Traffic.** Lights illuminating beach
3 access points, dune crossovers, beach walkways, piers or any
4 other structure seaward of the crest of the dune designed for
5 pedestrian traffic shall be the minimum level necessary to
6 maintain safety and shall be located and shielded such that
7 lights and their illumination are not directly or indirectly
8 visible from the beach.
- 9 4) **Use of Window Treatments.** To prevent interior lights from
10 illuminating the beach, window treatment shall be required on
11 all windows visible from the beach within jurisdictional
12 boundaries. Blackout draperies or shadescreens are preferred.
13 Alternatively or additionally, window tint may be applied to
14 beachfront windows. The turning out of all unnecessary
15 interior lights during the nesting season is strongly
16 encouraged.
- 17 5) **Special Lighting Restrictions During the Peak Nesting Season.**
18 Effective May 1, 1988, and continuously throughout each peak
19 nesting season (May March 1 through October 31), external
20 light sources that are visible from the beach or illuminate
21 directly or indirectly areas seaward of the crest of the dune
22 shall be disconnected or otherwise modified to comply with
23 this section.
- 24 6) Recommended Corrective Action. The following measures can be
25 used to reduce or eliminate the effects of any exterior
26 lighting on hatchlings and nesting sea turtles:
- 27 (a) Permanently remove the fixture;
28 (b) Disconnect the fixture;
29 (c) Reposition the fixture so the point source of light is no
30 longer visible from the beach;
31 (d) Replace fixtures having an exposed light source with
32 fixtures containing recessed light sources or shields;
33 (e) Replace non-directional fixtures with directional fixtures
34 pointing down and away from the beach;
35 (f) Replace fixtures having transparent or translucent coverings
36 with fixtures having opaque shields covering an arc of at
37 180 degrees and extending an appropriate distance below the
38 bottom edge of the fixture on seaward side so the light
39 source is not visible from the beach;
40 (g) Replace pole lamps with low-profile, low-level luminaries so
41 that the light source is not visible from the beach;
42 (h) Plant or improve vegetation buffers between the light source
43 and the beach to screen light from the beach; and
44 (i) Construct an ornamental structural barrier to shield light
45 source from the beach.
- 46 ~~(6-7)~~ **Enforcement and Implementation of Mitigative Corrective**
47 **Measures.** In areas where compliance with the lighting
48 conditions of this ordinance are not evidenced, non-
49 compliant property owners shall be required to implement
50 appropriate ~~protective~~ corrective measures, developed in
51 consultation with ERM to correct ~~mitigate against~~
52 ~~potential~~ negative impacts to sea turtles. Corrective
53 Mitigative measures shall be implemented in addition to
54 applicable penalties and fines. Any ~~mitigation~~ corrective
55 program implemented as a result of noncompliance with
56 lighting conditions of this ordinance shall remain in
57 effect until such time that acceptable beachfront
58 lighting is achieved. Relocation of nests where

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- 1 authorized by the Department of Environmental Protection
2 shall be considered only as a last resort and as a
3 temporary measure while other solutions are being
4 developed and implemented.
- 5 ~~j. The proposed project is in accordance with Rule 16B 33.005,~~
6 ~~F.A.C., Florida Department of Natural Resources (FDNR) Rules~~
7 ~~and Procedures for Coastal Construction and excavation. In~~
8 ~~the event of a conflict between this section and the F.A.C.,~~
9 ~~the provisions which are more stringent shall govern.~~
- 10 ~~k. The proposed project is in accordance with Rule 16B 33.007,~~
11 ~~F.A.C., Rules and Procedures for Coastal Construction and~~
12 ~~excavation. In the event of a conflict between this section~~
13 ~~and the adopted F.A.C., the provisions which are more~~
14 ~~stringent shall govern.~~
- 15 ~~l. ERM staff shall consider the FDNR Policy Memoranda (PM) 1-32~~
16 ~~when evaluating coastal permit applications.~~
- 17 **Subpart** Section 9.1.J., Coastal Protection, Criteria for
18 Issuance of a Permit, has been retitled to Standards for
19 Dune Crossovers. Standards from Sec. 9.1.H.2.a.(6),
20 Coastal Protection, Criteria for Issuance of a General
21 Permit, Dune Walkovers, Information Sign Requirements
22 have been relocated to this section and amended to add,
23 delete and reformat as follows:
- 24 **J. STANDARDS FOR DUNE CROSSOVERS**
- 25 ~~1.(6)~~ **Information Sign Requirements.** Permanent sea turtle
26 information signs shall be conspicuously posted by
27 applicable jurisdictions at all public beach access
28 points provided with dune crossovers. The information
29 signs shall be standardized by the ERM.
- 30 ~~a.(a)~~ **Sign posting responsibility.** Sea turtle information signs
31 shall be encouraged at all new private beach access
32 points provided with dune crossovers. Signage shall be
33 the responsibility of the property owner.
- 34 ~~b.(b)~~ **Sign Maintenance Requirements.** Standardized sea turtle
35 information signs shall be maintained in perpetuity such
36 that information printed on the signs remains accurate
37 and legible and the signs positioned such that they are
38 conspicuous to persons at all public beach access points
39 provided with dune crossovers.
- 40 ~~c.(c)~~ **Sign Removal.** Removal of the information signs by anyone
41 other than those authorized by ERM is prohibited.
- 42 **Subpart** Section 9.1.K, Coastal Protection, Mitigation is deleted
43 in its entity and retitled to Sand Preservation Zone
44 Standards. Standards from Sec. 9.1.J.1.c., Coastal
45 Protection, Criteria for Issuance of a Permit have been
46 relocated to this section and is amended to add, delete
47 and reformat as follows:
- 48 **K. SAND PRESERVATION ZONE STANDARDS**
- 49 ~~e-1.~~ There shall be no net loss of sand from the Sand
50 Preservation/~~Sea Turtle Protection~~ Zone (SPZ). Sand
51 temporarily excavated from the Sand Preservation/~~Sea Turtle~~
52 ~~Protection~~ Zone shall be returned to the Sand

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1 ~~Preservation/Sea Turtle Protection Zone Sand Preservation~~
2 ~~Zone. Sand shall be returned to the SPZ prior to the~~
3 ~~issuance of a building department Certificate of Occupancy~~
4 ~~(C.O.) where a C.O. is required, or within six (6) months of~~
5 ~~the excavation for projects which do not require a C.O.~~
6 ~~expiration date of the permit. In addition, the sand may not~~
7 ~~be degraded by mixing with any sediment, soil, or material,~~
8 ~~such that it will not meet the definition for beach~~
9 ~~compatible sand as defined. that is not approved by ERM.~~

10 2. Sediment analysis of existing beach/dune and any proposed
11 fill material to be mixed with the existing sand may be
12 required by ERM. Written notification must be provided to ERM
13 (attention: ERM Coastal Geologist) prior to removal of sand
14 from the SPZ.

15 **~~K. MITIGATION.~~**

16 ~~1. General. For projects that do not meet the permitting~~
17 ~~criteria of Secs. 9.1.H or 9.1.J, ERM may evaluate proposals~~
18 ~~for mitigation. ERM shall first use the criteria of Sec.~~
19 ~~9.1.K.2 to determine when mitigation is appropriate. The~~
20 ~~criteria of Sec. 9.1.K.3 shall be used to set standards for~~
21 ~~accepting mitigation proposals.~~

22 ~~2. When to Evaluate Mitigation Proposals.~~

23 ~~a. No Alternative Site. Restoration or creation may be permitted~~
24 ~~to compensate for loss of functional dune ecosystem only~~
25 ~~where a permit applicant demonstrates that the proposed~~
26 ~~activity cannot be practically located landward of the~~
27 ~~Coastal Protection Zone.~~

28 ~~b. All practical measures will be taken to reduce impact.~~
29 ~~Restoration or creation may be permitted to compensate for~~
30 ~~dune loss only where the permit applicant has made reasonable~~
31 ~~project modification measures to reduce dune loss and~~
32 ~~degradation.~~

33 ~~3. Standards for Mitigation.~~

34 ~~a. No Overall Net Losses. Restoration or creation may be~~
35 ~~permitted to compensate for dune losses only where~~
36 ~~restoration and/or creation will restore lost dune functions~~
37 ~~and values in the zone which is being impacted and where it~~
38 ~~does not result in loss to sea turtle nesting habitat. The~~
39 ~~following mitigation ratios shall be presumed to restore dune~~
40 ~~functions and values when performed in kind:~~

41 ~~(1) Landward of Armored Shoreline.....1.0:1~~
42 ~~(2) Natural Shoreline~~
43 ~~(a) Pioneer Zone Vegetation.....2.0:1~~
44 ~~(b) Scrub Zone Vegetation.....3.0:1~~

45 ~~b. Only where the created dune can be expected to surpass the~~
46 ~~values and functions of the existing dune can the ratio be~~
47 ~~adjusted downward.~~

48 ~~c. ERM shall require a ratio for restored or created functions~~
49 ~~and/or acreage exceeding these ratios where:~~

50 ~~(1) Uncertainties exist as to the probable success of the~~
51 ~~proposed restoration or creation; or~~
52 ~~(2) The degradation or destruction will deprive Palm Beach~~
53 ~~County of various dune values for a period of time until the~~

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1 ~~restoration or creation is completed and functional, or~~
2 ~~(3) Mitigation is proposed off site or not in kind, or~~
3 ~~(4) Mitigation proposals include restoration or enhancement of~~
4 ~~an existing dune rather than a new creation.~~

5 **Subpart** Section 9.1.L., Coastal Protection, Appeals is not
6 amended but is included for clarity.

7
8 **L. APPEALS.**

9 Any affected party may appeal a final determination of ERM made
10 pursuant to this section to the Environmental Ordinance Appeals
11 Board. A written notice of appeal shall be filed by the applicant
12 with the Director of ERM within twenty (20) days from receipt of
13 the decision appealed from, setting forth in detail the factual
14 basis for such an appeal. The appeal shall be reviewed at a
15 hearing by the appeal board within sixty (60) days of ERM's
16 receipt of a request and a \$50.00 filing fee. The appeal board
17 shall enter a decision by written order not less than ten (10)
18 days following conclusion of the hearing. The order shall include
19 findings of fact and conclusions of law and shall be deemed final
20 administrative action. An applicant or ERM may appeal a final
21 decision of the appeal board within thirty (30) days of the
22 rendition of the decision by filing a petition for Writ of
23 Certiorari in Circuit Court of the Fifteenth Judicial Circuit in
24 and for Palm Beach County, Florida.

25 **Subpart** Section 9.1.M., Coastal Protection, Fees is amended to
26 add and delete language as follows:

27 **M. FEES**

- 28 1. A fee shall be required as established by the approved fee
29 schedule.
- 30 2. Permit STLP application fees shall be non-refundable and
31 nontransferable.
- 32 3. All application fees paid by check shall be made payable to
33 the Palm Beach County Board of County Commissioners.

34 **Subpart** Section 9.1.N., Coastal Protection, Enforcement, is
35 retitled to Violations and amended to delete, add and
36 reformat language as follows:

37 **N. ENFORCEMENT- VIOLATIONS**

38 A violation of this section shall be defined as follows:

- 39 1. A lighting source illuminated during the night such that it
40 causes the mortality and/or disorientation of a sea turtle or
41 hatchling, following an initial notification by ERM. Each
42 additional individual sea turtle or hatchling mortality
43 and/or disorientation documented by ERM staff, a permitted
44 agent of the State, code enforcement officials or law
45 enforcement officers shall constitute a separate violation.
- 46 2. Installation of beachfront light fixtures in the STPZ without
47 ERM approval.
- 48 3. Submittal to ERM of any signed and sealed lighting inspection
49 report containing false information.
- 50 4. Removal of sand from the SPZ without first supplying written

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1 notification to ERM.

2 5. Degrading sand by mixing with sediment, soil, or material
3 such that it will not meet the definition for beach
4 compatible sand.

5 6. Alterations which result in a net loss of sand from the SPZ.

6 ~~7.3.a. Pedestrians shall not transverse Traversing a natural dune~~
7 ~~by a pedestrian within 200 feet of a public dune walkover. except~~
8 ~~by use of the walkover or other approved walkovers.~~

9 ~~8.2. Failure to comply with the requirements of this section or~~
10 ~~any permit or approval granted or authorized hereunder.~~
11 ~~shall constitute a violation of this section. Violations of~~
12 ~~the provisions of this section, upon conviction, shall be~~
13 ~~punished by a fine not to exceed five hundred dollars (\$500)~~
14 ~~per violation, per day, or by imprisonment in the County~~
15 ~~jail not to exceed sixty (60) days, or by both fine and~~
16 ~~imprisonment pursuant to the provisions of Sec. 125.69, Fla.~~
17 ~~Stat. In addition to the sanctions contained herein, the~~
18 ~~County and/or other municipal entity may take any other~~
19 ~~appropriate legal action, including, but not limited to,~~
20 ~~administrative action and requests for temporary and~~
21 ~~permanent injunctions to enforce the provisions of this~~
22 ~~section. It is the purpose of this section to provide~~
23 ~~additional cumulative remedies.~~

24 ~~3. The following specific activities are prohibited by this~~
25 ~~section and shall be considered a violation of this section.~~

26 ~~b. The routine storage of boats/watercraft within a vegetated~~
27 ~~dune area is specifically prohibited except for emergency use~~
28 ~~not to exceed 24 hours during storm events.~~

29 ~~c. The unauthorized alteration or damage to or removal of the~~
30 ~~beaches, dunes or coastal vegetation in any manner defined by~~
31 ~~this section of up to 1,500 square feet in extent.~~

32 ~~d. Alteration or damage to or removal of each additional 1,500~~
33 ~~square feet, or portion thereof, of beaches, dunes or coastal~~
34 ~~vegetation in violation of this section shall constitute a~~
35 ~~separate violation.~~

36 ~~e. Cumulative violations shall be determined by the addition of~~
37 ~~each 1,500 square feet tract or portion thereof of beaches,~~
38 ~~dunes or coastal vegetation, whether altered in the same~~
39 ~~manner or in a different manner, as defined by this section.~~

40 ~~f. Alteration of a sea grape shall constitute an individual~~
41 ~~violation.~~

42 ~~4. Violations of this section may be referred by ERM to the~~
43 ~~Groundwater and Natural Resources Protection Board for~~
44 ~~corrective actions and civil penalties and coordinated with~~
45 ~~the appropriate municipal entity, if applicable.~~

46 ~~5. Alteration, removal of, or damage to the beaches, dunes or~~
47 ~~coastal vegetation may result in an order to restore to pre-~~
48 ~~existing conditions.~~

49 ~~6. All monies collected pursuant to violations of this section~~

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1 ~~shall be deposited in the Pollution Recovery Trust Fund.~~

2 9.1. Any ~~structures~~, lighting projects or alterations which would
3 have been in violation of Palm Beach County Ordinances No.
4 72-12, 78-20, 87-13 or 90-2, as amended, during its
5 effective period, shall continue to be violations under this
6 section but shall be subject to prosecution under the terms
7 of Ordinance No. 72-12, 78-20, 87-13 or 90-2 as amended.

8 **Subpart** Section 9.1.O., Coastal Protection, Approved Plant List
9 is deleted in its entirety and retitled to Enforcement,
10 and language is added as follows:

11 **O. ENFORCEMENT**

12 1. In order to enforce compliance with the provisions of this
13 section, ERM may issue a cease and desist order or require
14 that a building permit or C.O. be withheld. Violations of the
15 provisions of this section shall be punishable by one or more
16 of the following:

17 a. Triple application fees for STLP approvals not obtained prior
18 to violations involving activities which would otherwise have
19 been authorized as determined by ERM;

20 b. Enforcement procedures as outlined in Article 14; or

21 c. Notwithstanding, the enforcement procedures set forth above,
22 the County shall not be prevented from enforcing the
23 provisions of this section by any other measures allowable by
24 law, including but not limited to, Chapters 125 and 162,
25 Florida Statutes, as may be amended.

26 2. All monies collected pursuant to as civil penalties for
27 violations of this section shall be deposited in the
28 Pollution Recovery Trust Fund.

29 **O. APPROVED PLANT LIST**

30 ~~In addition to the following list, ERM may approve additional~~
31 ~~species that can be documented to be local native coastal~~
32 ~~species.~~

33 Pioneer Zone

34	<u>Alternanthera maritima</u>	<u>chaff flower</u>
35	<u>Alternanthera ramosissima</u>	<u>chaff flower</u>
36	<u>Ambrosia hispida</u>	<u>ragweed</u>
37	<u>Bidens pilosa</u>	<u>spanish needles</u>
38	<u>Borrchia arborescens</u>	<u>sea oxeye</u>
39	<u>Canavalia maritima</u>	<u>bay bean</u>
40	<u>Cenchrus spp.</u>	<u>sand spur</u>
41	<u>Chamaesyce spp.</u>	<u>beach spurge</u>
42	<u>Cnidoscolus stimulosus</u>	<u>tread softly</u>
43	<u>Commelina erecta</u>	<u>day flower</u>
44	<u>Croton glandulosus</u>	<u>beach croton</u>
45	<u>Distichlis spicata</u>	<u>salt grass</u>
46	<u>Helianthus debilis</u>	<u>beach sunflower</u>

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1	<i>Hymenocallis lanifolia</i>	spider lily
2	<i>Ipomoea pes caprae</i>	railroad vine
3	<i>Ipomoea stolonifera</i>	fiddleleaf morning glory
4	<i>Iva imbricata</i>	beach elder
5	<i>Okenia hypogaea</i>	beach peanut
6	<i>Panicum amarum</i>	dune panic grass
7	<i>Paspalum vaginatum</i>	seashore paspalum
8	<i>Remirea maritima</i>	beach star
9	<i>Salsola kali</i>	Russian thistle
10	<i>Scaevola plumieri</i>	ink berry
11	<i>Sesuvium portulacastrum</i>	sea purslane
12	<i>Spartina patens</i>	cordgrass
13	<i>Sporobolus virginicus</i>	seashore dropseed
14	<i>Suriana maritima</i>	bay cedar
15	<i>Tournefortia gnaphalodes</i>	sea lavender
16	<i>Tribulus cistoides</i>	puncture weed
17	<i>Uniola paniculata</i>	sea oats

18 ~~-----~~ **Scrub Zone**

19	<i>Agave decipiens</i>	agave
20	<i>Andropogon capillipes</i>	chalky bluestem
21	<i>Ardisia escallonioides</i>	marlberry
22	<i>Arenaria pentandra</i>	sandwort
23	<i>Baccharis halimifolia</i>	grounset
24	<i>Borrichia frutescens</i>	sea daisy
25	<i>Callicarpa americana</i>	American beautyberry
26	<i>Capparis flexuosa</i>	lumber caper
27	<i>Centrosema virginianum</i>	butterfly pea
28	<i>Chiococca alba</i>	snowberry
29	<i>Chrysobalanus icaco</i>	cocoplum
30	<i>Coccoloba uvifera</i>	sea grape
31	<i>Commelina erecta</i> var. <i>angustifolia</i>	day flower
32	<i>Crotalaria pumila</i>	beach rattlebox
33	<i>Croton glandulosus</i>	beach croton
34	<i>Dalbergia ecastophyllum</i>	coin vine
35	<i>Echites umbellata</i>	Devil's potato
36	<i>Ernodea littoralis</i>	golden creeper
37	<i>Eugenia axillaris</i>	white stopper
38	<i>Eugenia foetida</i>	Spanish stopper
39	<i>Flaveria linearis</i>	yellowtop
40	<i>Galactia maereei</i>	milk pea
41	<i>Guapira discolor</i>	blolly
42	<i>Hamelia patens</i>	fire bush
43	<i>Iva imbricata</i>	beach elder
44	<i>Ipomoea indica</i>	purple morning glory
45	<i>Jacquemontia reclinata</i>	beach jacquemontia
46	<i>Lantana involucrata</i>	wild sage
47	<i>Licania michauxii</i>	gopher apple
48	<i>Lycium carolinianum</i>	Christmas berry
49	<i>Melanthera aspera</i>	melanthera
50	<i>Melothria pendula</i>	creeping cucumber
51	<i>Mikania cordifolia</i>	climbing hempweed
52	<i>Morinda royce</i>	yellowroot

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Myrica cerifera	wax myrtle
Myrsine floridana	myrsine
Opuntia spp.	prickly pear
Panicum amarum	dune panic grass
Parthenocissus quinquefolia	Virginia creeper
Passiflora suberosa	corky stemmed passion flower
Physalis viscosa	ground cherry
Pithecellobium guadalupense	blackbead
Polygala grandiflora	milkwort
Psychotria nervosa	wild coffee

~~Scrub Zone (cont'd)~~

Randia aculeata	white indigoberry
Sabal palmetto	cabbage palm
Serenoa repens	saw palmetto
Smilax spp.	green briar
Solanum bahamense	nightshade
Solidago stricta	goldenrod
Sophora tomentosa	necklace pod
Spartina patens	cordgrass
Suriana maritima	bay cedar
Tournefortia gnaphalodes	sea lavender
Trichostema suffrutescens	blue curls
Uniola paniculata	sea oats
Verbena maritima	beach verbena
Vigna luteola	cow pea
Yucca aloifolia	Spanish bayonet

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1

Forest Zone

2	<i>Amyris elemifera</i>	torchwood
3	<i>Ardisia escallonioides</i>	marlberry
4	<i>Bursera simaruba</i>	gumbo limbo
5	<i>Caesalpinia bonduc</i>	nickerbean
6	<i>Capparis cynophallophora</i>	Jamaica caper
7	<i>Capparis flexuosa</i>	Limber caper
8	<i>Chiococca alba</i>	snowberry
9	<i>Citharexylum fruticosum</i>	fiddle wood
10	<i>Chrysobalanus icaco</i>	cocoplum
11	<i>Coccoloba diversifolia</i>	pigeon plum
12	<i>Coccoloba uvifera</i>	sea grape
13	<i>Cocos nucifera</i>	coconut palm
14	<i>Conocarpus erecta</i>	button wood
15	<i>Diospyras virginiana</i>	persimmon
16	<i>Drypetes lateriflora</i>	Guiana plum
17	<i>Erythrina herbacea</i>	coral bean
18	<i>Eugenia axillaris</i>	white stopper
19	<i>Eugenia foetida</i>	Spanish stopper
20	<i>Exothea paniculata</i>	inkwood
21	<i>Ficus aurea</i>	strangler fig
22	<i>Forestiera segregata</i>	Florida privet
23	<i>Guapira discolor</i>	bloily
24	<i>Hamelia patens</i>	fire bush
25	<i>Ipomoea alba</i>	moonflower
26	<i>Ipomoea indica</i>	purple morning glory
27	<i>Krugiodendron ferreum</i>	black ironwood
28	<i>Mastichodendron foetidissimum</i>	wild mastie
29	<i>Metopium toxiferum</i>	poison wood
30	<i>Morus rubra</i>	red mulberry
31	<i>Myrsine floridana</i>	myrsine
32	<i>Nectandra coriacea</i>	lancewood
33	<i>Persea borbonia</i>	red bay
34	<i>Pithecellobium guadalupense</i>	blackbead
35	<i>Psychotria nervosa</i>	wild coffee
36	<i>Quercus virginiana</i>	live oak
37	<i>Randia aculeata</i>	white indigo berry
38	<i>Rivina humilis</i>	rouge plant
39	<i>Sabal palmetto</i>	cabbage palm
40	<i>Serenoa repens</i>	saw palmetto
41	<i>Simarouba glauca</i>	paradise tree
42	<i>Urechites lutea</i>	wild allamanda
43	<i>Zanthoxylum fagara</i>	wild lime

44 **Subpart** Section 9.4.N., Wetlands Protection, Sunset Clause is
 45 amended to add and delete language as follows:

46 **N. SUNSET-CLAUSE SUSPENSION CLAUSE**

47 ~~This Section 9.4 shall be reviewed at a workshop meeting of the~~
 48 ~~Board of County Commissioners on or about August 16, 1994, and,~~
 49 ~~if the Board deems it necessary to rulemaking to the Florida~~
 50 ~~Legislature, at a workshop meeting on or about February 15, 1994.~~
 51 Upon the effective date of the ordinance amending this

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1 subsection, permits described in Section 9.4.H. will not be
2 required for projects permitted for wetland impact through the
3 Environmental Resource Permit (ERP) process by the Florida
4 Department of Environmental Protection or the South Florida Water
5 Management District. Upon adoption of a formal Environmental
6 Resource Permit delegation with the State of Florida pursuant
7 to Chapter 62-344, F.A.C., the suspension provided for in this
8 subsection shall be null and void and the permitting requirements
9 reinstated provided that the permitting requirements of Section
10 9.4.H. are consistent with the authority granted under the ERP
11 delegation.

12 **Subpart** Section 7.5 Vegetation Preservation and Protection, and
13 Section 9.2 Environmentally Sensitive Lands, are both
14 repealed in their entirety and replaced with Section
15 9.5., Vegetation Preservation and Protection, created as
16 follows:

17 **SEC. 9.5 VEGETATION PRESERVATION AND PROTECTION.**

18 **A. GENERAL.**

19 **1. Purpose.** This section establishes a program to preserve and
20 protect native upland vegetation communities and those areas
21 designated as environmentally sensitive lands. The program
22 provides an administrative review and permitting process to
23 prohibit the unnecessary destruction of native upland trees
24 and vegetation and to require the eradication of harmful
25 invasive exotic plant species.

26 **2. Applicability.** The provisions of this section shall apply
27 within the unincorporated areas of Palm Beach County and
28 shall apply to the alteration or removal of non-native and
29 native upland vegetation, and the establishment and
30 maintenance of preserve areas. Terms specific to this section
31 are defined in Sec. 9.5.J.

32 **3. Authority.** This section is adopted under the authority of
33 Chapter 125, Fla. Stat., and the Palm Beach County
34 Comprehensive Plan, as amended. ERM shall administer the
35 requirements of this section.

36 **B. TYPES OF APPROVAL.** No person shall cause the alteration or
37 removal of non-native and native upland vegetation, unless
38 such alteration or removal is deemed exempt or a permit has
39 been issued under this section. Types of approval include:

40 **1. Exemptions.** A number of specific activities have been
41 determined to have minimal adverse impact and are exempt from
42 the permitting process of this section. No approval is
43 required from ERM provided compliance with the conditions of
44 the exemption occurs. Exemptions are listed in Section 9.5.C.

45 **2. Vegetation Removal Notice for Single Family Residential Lots.**
46 Single-Family residential lots less than 2.5 acres in gross
47 size will automatically receive a Vegetation Removal Notice
48 with standard conditions as part of the building permit
49 process. For the purposes of this section, a single family
50 residential lot also includes a single two-unit (duplex)
51 residence and associated accessory structures. The Vegetation
52 Removal Notice shall be executed by the applicant as part of
53 the building permit process. Authorization will be issued
54 concurrently with the building permit. For alteration in
55 advance of the building permit, a Vegetation Removal Notice
56

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- 1 application shall be submitted directly to ERM. Conditions of
2 the Vegetation Removal Notice for single-family residential
3 lots are listed in Section 9.5.D.
- 4 **3. General Permit.** A general permit may be issued for exotic
5 vegetation removal and minor vegetation alteration as
6 determined by ERM in advance of building permits. A general
7 permit may also be issued for minor construction activities
8 (fences, building additions) to existing developed and
9 undeveloped lots. This permit is expected to have an
10 expedited review with field issuance following an on-site
11 meeting with the applicant. Specifics of the general permit
12 are found in Section 9.5.E.
- 13 **4. Standard Permit.** A standard permit is required for vegetation
14 alteration that is not otherwise approved as a Vegetation
15 Removal Notice for single-family residential lots or a
16 General Permit or is otherwise exempt from this section.
17 Standard Permit requirements are listed in Section 9.5.F.
- 18 **5. Specimen Tree Permit.** This permit is designed to protect
19 certain exceptional trees due to their size and stature that
20 make them important natural resources deserving of special
21 protection. Permitting issues associated with Specimen Trees
22 will generally be incorporated with standard permits but
23 shall require special attention for activities that are
24 otherwise exempt or covered by the General Permit or
25 Vegetation Removal Notice. Specimen Tree requirements are
26 listed in Section 9.5.G.
- 27 **C. EXEMPTIONS.** The following activities are exempt from the
28 permitting process of this section:
- 29 **1. Land surveyor.** The minimal removal of trees or understory
30 necessary for a Florida licensed land surveyor to conduct
31 surveys. The cleared swath shall not cause the removal of
32 trees three (3) inches or greater dbh nor exceed five (5)
33 feet in width, and hand clearing only shall be used to remove
34 vegetation.
- 35 **2. Public and private utilities.** Any alteration of existing
36 canals or structures to design specifications pursuant to the
37 direction of public or private utilities, water control
38 district, or water management districts within drainage
39 easements where the vegetation is interfering with drainage
40 or services provided by the public or private utilities,
41 water control districts or water management districts. New
42 construction is not an exempt activity.
- 43 **3. Natural emergencies.** The provisions of this section may be
44 suspended or waived by the Director of ERM during a period of
45 officially declared emergency, such as a hurricane,
46 windstorm, tropical storm, flood or similar disaster.
- 47 **4. Forest management activities.** Selective tree removal for
48 forest management activities for a specific site as defined
49 in the current Forest Management Plan as approved by the
50 Florida Division of Forestry.
- 51 **5. Botanical gardens, botanical research centers, licensed**
52 commercial nurseries, or bona-fide agricultural operations.
53 Vegetation alteration associated with subsequent harvesting
54 activities, except within preserve areas or vegetated
55 buffers, which are part of the on-going activities of the

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- 1 existing operation shall not require a permit. Initial
2 clearing of a site is not an exempt activity.
- 3 6. Parks and recreation. Alterations or activities associated
4 with an adopted management plan for government-maintained
5 parks, recreation areas, wildlife management areas,
6 conservation areas and preserves. New construction or
7 development is not an exempt activity.
- 8 7. Lot Clearing Ordinance. Removal of exotic vegetation ONLY as
9 required pursuant to the Lot Clearing Ordinance (Ordinance
10 No. 92-13), as amended, or by a public law enforcement agency
11 directive or order pursuant to necessary law enforcement
12 activity.
- 13 8. Mitigation or enhancement projects. Activities conducted on
14 projects which have received a permit from SFWMD, DEP, or ERM
15 pursuant to Chapters 403 and 373, Fla. Stat., and FAC Chapter
16 62-312, as amended, and Sec. 9.4 of this Code, including
17 projects approved for an adopted Surface Water Improvement
18 and Management (SWIM) Plan.
- 19 9. Landscape plant removal. Removal or alteration of non-native
20 vegetation installed as landscape material from a developed
21 site, provided the activity complies with the requirements of
22 Section 7.3, Landscaping and Buffering, and no removal occurs
23 from native vegetation buffers or preserves.
- 24 10. Preserve management activities. Preserve management
25 activities on publicly or privately-owned lands, provided
26 that all of the following conditions are applicable:
- 27 a. The preserve area is designated as such by deed restriction,
28 plat, restrictive covenant, or conservation easement and is
29 dedicated to a public entity or approved private conservation
30 group for the purpose of preservation in perpetuity; and
- 31 b. The purpose of the activity is to protect and preserve the
32 natural values and functions of the ecological communities
33 present, such as clearing for firebreaks for prescribed burns
34 or construction of fences.
- 35 11. De Minimis impacts. Those projects for which ERM determines
36 that there will be no significant adverse environmental
37 impacts and a written response is provided by ERM.
- 38 D. VEGETATION REMOVAL NOTICE FOR SINGLE FAMILY RESIDENTIAL LOTS.
39 The initial construction of a single-family unit or a single
40 two (2) unit (duplex) residence or associated accessory
41 structures on lots less than two and one half (2.5) acres in
42 gross size shall comply with the conditions of the Notice.
43 The Notice conditions are as follows:
- 44 1. Minimum Alteration. The extent of removal of vegetation shall
45 be limited to the minimum necessary to accomplish the purpose
46 of the site plan.
- 47 2. Removal of Prohibited Plant Species. Complete removal or
48 eradication of prohibited plant species, as defined below,
49 shall be completed for the entire site prior to receipt of
50 the Certificate of Occupancy (C.O.). Planting or installation
51 of these plant species is prohibited. Periodic removal is
52 required to prevent future re-establishment of the prohibited
53 species on site. The following plant species are prohibited:

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- 1 Melaleuca, punk tree or paper tree - *Melaleuca quinquenervia*
2 Brazilian pepper or Florida holly - *Schinus teribinthifolius*
3 Australian pine - *Casuarina* spp.
4 Earleaf acacia - *Acacia auriculiformis*
5 Kudzu - *Pueraria montana* (*P. lobata*)
6 Small-leaved climbing fern - *Lygodium microphyllum*
- 7 **3. Permit Duration.** The Vegetation Removal Notice shall be in
8 effect for one (1) year after the issuance date. The issuance
9 date may be the date of issuance of the building construction
10 permit.
- 11 **E. GENERAL PERMIT.** An applicant may request consideration for a
12 general permit for minor vegetation alteration as determined
13 by ERM, and/or for exotic plant removal. The field-issued
14 general permit may be issued for those portions or for all of
15 a property wherein exotic vegetation comprise eighty (80%)
16 percent or more of the vegetation as determined by ERM. For
17 properties wherein exotic vegetation comprises less than
18 eighty (80%) percent as determined by ERM, a standard permit
19 shall be issued. A general permit with appropriate conditions
20 designed to protect native upland and wetland vegetation
21 shall be issued following an on site meeting with the
22 applicant or the applicant's agent and receipt of a completed
23 permit form signed by the applicant or the applicant's agent.
24 Such permit conditions may include, but are not limited to,
25 setbacks from otherwise protected vegetation, considerations
26 for methods of vegetation removal, protection of specimen
27 trees or listed species, removal of prohibited plant species
28 and consideration for vegetation disposal. General permits
29 are valid for one year, unless otherwise extended by ERM.
- 30 **F. STANDARD PERMIT.** A standard permit requires submittal of an
31 application on forms provided by ERM. This permit shall be
32 issued with building permits, as applicable, and shall
33 include preservation and protection of native upland
34 vegetation through such techniques as removal of prohibited
35 plant species, incorporating existing native vegetation into
36 the site plan, relocating native vegetation as appropriate,
37 establishing natural area preserves and salvaging native
38 vegetation to off-site locations. Flexibility has been added
39 to the process by providing options which could allow for the
40 issuance of a standard permit in advance of building permits,
41 as well as options to the requirement for establishing on-
42 site natural area preserves. With the exception of
43 agricultural, and roadway production activities, and exotic
44 vegetation removal only, all standard permits shall be issued
45 with the building permits or a Land Development Permit.
46 Permits are valid for one year from the date of issuance
47 unless otherwise extended by ERM. A standard permit
48 application shall include the following information:
- 49 **1. Completed application form.** An application form shall be
50 completed, signed and notarized by the property owner or by
51 an agent of the owner with the following attachments:
- 52 **a. Site description.** A site description which shall include a
53 location map, certified site plan or survey, showing all
54 easements and a recent aerial map with the site delineated
55 and color photographs depicting the site.
- 56 **b. Vegetation assessment.** A vegetation assessment and species
57 list describing the vegetative communities on site. This

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- 1 information is provided by ERM during the site inspection for
2 single family applicants.
- 3 c. Tree survey. A tree survey with a numbered tabular list and a
4 listed species assessment may be required.
- 5 d. List of salvageable native vegetation. A list of salvageable
6 native vegetation which cannot otherwise be used on site
7 placed on forms provided by ERM.
- 8 **2. Technical requirements for standard permits.**
- 9 **a. Removal of prohibited plant species. Complete removal or**
10 **eradication of prohibited plant species, as defined below,**
11 **shall be completed for the entire site concurrent with the**
12 **permitted vegetation alteration and prior to receipt of the**
13 **first C.O., if applicable, unless a phasing plan has been**
14 **approved by ERM. Planting or installation of these plants is**
15 **prohibited. Periodic follow-up removal is required to prevent**
16 **future re-establishment of the prohibited species on-site.**
17 **The following list constitutes the prohibited plant species,**
18 **and the list may be updated by resolution by the Board of**
19 **County Commissioners:**
- 20 Melaleuca, punk tree or paper tree - *Melaleuca quinquenervia*
21 Brazilian pepper or Florida holly - *Schinus teribinthifolius*
22 Australian pine - *Casuarina* spp.
23 Earleaf acacia - *Acacia auriculiformis*
24 Kudzu - *Pueraria moniana* (*P. lobata*)
25 Small-leaved climbing fern - *Lygodium microphyllum*
- 26 **b. Incorporation/Relocation of Existing Native Vegetation.**
27 **Existing native vegetation shall be incorporated into the**
28 **site plan and protected during construction. Existing native**
29 **vegetation which cannot practically be preserved in place on**
30 **the site plan shall be relocated to buffer and open space**
31 **areas on site. To preserve and protect native vegetation, ERM**
32 **shall also consider:**
- 33 **1) Limiting the removal of native vegetation to the minimum**
34 **necessary to accomplish the site plan.**
35 **2) Preserving listed species in place or relocating to buffers,**
36 **open space or undeveloped portions of the site.**
37 **3) The likelihood of accomplishing successful relocation of**
38 **vegetation on or off site.**
39 **4) The use of barriers and flagging during construction to**
40 **establish appropriate setbacks to protect and preserve native**
41 **vegetation.**
42 **5) Mitigation/compensation for the loss of native vegetation**
43 **which exceeds the minimum necessary to accomplish the site**
44 **plan.**
- 45 **c. Establishing Natural Area Preserves. All standard permits**
46 **with the exception of lots for single family or a single two**
47 **(2) unit (duplex) residence that are less than four (4) acres**
48 **in gross size, shall be evaluated for the establishment of a**
49 **natural area preserve. Sites which previously have been**
50 **designated as environmentally sensitive lands or otherwise**
51 **have significant areas of native vegetation shall be required**
52 **by ERM to designate a natural area preserve equivalent to 25%**
53 **of the total native upland vegetation on site or otherwise**
54 **comply with this Section. New public park facilities**
55 **constructed on parcels 20 acres in size or less shall be**

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1 exempt from the preserve requirements of this section.

2 Applicants are urged to evaluate preserve requirements prior
3 to site planning. In determining significant areas of native
4 vegetation and in designating the location of the preserve,
5 ERM shall consider the quality of the native ecosystems,
6 overall quality of its biological diversity, the presence of
7 listed species, the wildlife habitat value, the compactness
8 of the preserve and its proximity to other natural preserve
9 areas and corridors. Activities within a preserve are
10 restricted to those which will not cause degradation of the
11 preserve. The preserve shall have the following additional
12 requirements:

13 1) Preserve Boundaries. The preserve boundaries shall be
14 designated in a certified survey submitted to ERM. Drainage
15 or other types of easements shall not be located within the
16 boundaries of the preserve. Prior to and during site
17 alteration, the preserve boundaries shall be clearly marked
18 and appropriately barricaded.

19 2) Management Plan. A Management Plan developed by the applicant
20 shall outline methods to provide long-term protection and
21 maintenance of the values and functions of the preserve. The
22 Management Plan shall be approved by ERM prior to issuance of
23 the permit for site development or site plan certification.
24 ERM shall provide "typical" management plans as guidance for
25 development of site specific plans.

26 3) Preserve Dedication. Preserve areas shall be identified as a
27 preserve graphically and in writing on the applicable plat,
28 restrictive covenant, or by a separate instrument to be
29 recorded pursuant to Section 704.06, Fla. Stat., as amended.
30 Said preserve shall be specifically and separately reserved
31 to the owner, or if applicable, to the property owners'
32 association as its perpetual maintenance responsibility,
33 without recourse to Palm Beach County or other governmental
34 entity or agency. Prior to issuance of the C.O., the plat or
35 instrument shall be approved by ERM, recorded in the public
36 records of Palm Beach County, and proof of recordation shall
37 be provided to ERM.

38 4) Invasive Non-Native Plant Species. In addition to removal or
39 eradication of the prohibited plant species as defined in
40 Section 9.5.F.2.a., the invasive non-native plant species as
41 defined below shall be removed or eradicated from the entire
42 site including the preserve area prior to receipt of the
43 first C. O. Periodic follow-up removal is required to control
44 regeneration of these species. The installation of these
45 plant species on lots containing preserves is prohibited.

46 The following list constitutes the invasive non-native plant
47 species as defined, and the list may be updated by Resolution
48 by the Board of County Commissioners:

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1	Air potato	<i>Dioscorea bulbifera</i>	Vine
2	Banyan	<i>Ficus bengalensis</i>	Tree
3	Bishop-wood	<i>Bischofia javanica</i>	Tree
4	Carrotwood	<i>Cupaniopsis anacardioides</i>	Tree
5	Cat's claw	<i>Mimosa pigra</i>	Tree
6	Chinese tallow tree	<i>Sapium sebiferum</i>	Tree
7	Cork tree	<i>Thespesia populnea</i>	Tree
8	Downy rose myrtle	<i>Rhodomyrtus tomentosus</i>	Shrub
9	Jasmine	<i>Jasminum dichotomum</i>	Shrub
10	Java plum	<i>Syzygium cumini</i>	Tree
11	Lather leaf	<i>Colubrina asiatica</i>	Vine
12	Lofty fig	<i>Ficus altissima*</i>	Tree
13	Mahoe	<i>Hibiscus tiliaceus</i>	Tree
14	Schefflera	<i>Schefflera actinophylla</i>	Tree
15		<i>(Brassaia actinophylla)</i>	
16	Shoebuttan ardisia	<i>Ardisia solanaceae</i>	Shrub
17	Woman's tongue	<i>Albizia lebbek</i>	Tree

18 * Plants may be grown only under greenhouse or shade house
19 conditions for use as indoor houseplants.

20 d. Salvaging Native Vegetation. Native upland vegetation which
21 cannot be preserved or relocated on site shall be considered
22 surplus. The applicant for standard permits shall attach to
23 the application a list, on a form provided by ERM, of the
24 available vegetation including the species names and
25 approximate quantity and sizes of each species. The applicant
26 shall physically mark (so no inadvertent destruction occurs)
27 available vegetation on site to afford easy identification.
28 ERM shall maintain a list of persons interested in salvaging
29 native plant species and shall assist in finding suitable
30 locations for this surplus vegetation. The vegetation shall
31 remain available for removal, sale or donation for at least
32 twenty (20) business days after issuance of the permit. The
33 applicant is encouraged to cooperate with the salvage of this
34 vegetation.

35 3. Standard Permit Options. The following options are available
36 on a voluntary basis to applicants seeking a standard permit.

37 a. Option for Receipt of Standard Permit in advance of a Land
38 Development or Building Permit. Public policy opposes
39 speculative land clearing which eliminates native vegetation
40 far in advance of development. However, certain conditions
41 can provide assurances that development will proceed in good
42 faith. A standard permit may be issued by ERM in advance of
43 issuance of the Land Development Permit or building permit,
44 provided the following conditions are met:

- 45 1) In addition to the application requirements contained in
46 Section 9.5.F.1., the following additional information is
47 required:
 - 48 a) Documentation of submittal of an application for a Land
49 Development Permit and fee payment; or
 - 50 b) If no Land Development Permit is required, then submittal of
51 a copy of the SFWMD early works permit for the site; and
 - 52 c) A performance guarantee or surety in an amount equal to one
53 hundred ten (110%) percent of the cost to restore native
54 plant communities appropriate to the site in the event native
55 vegetation is damaged or destroyed in violation of the permit
56 conditions during the pre-construction activities. ERM
57 retains the option for requesting a second cost estimate for
58 which the surety is based.

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- 1 2) The final site plan certification has been granted by the
2 Development Review Committee;
3 3) The work for which the permit is issued shall be completed
4 within one and one half (1 1/2) years of the issuance date;
5 4) Preserve dedication, pursuant to Section 9.5.F.2.c.3., for
6 any designated preserve area has occurred; and
7 5) Within one year of permit issuance, all prohibited plant
8 species shall have been removed, and until construction
9 commences, the site shall be regularly monitored and
10 maintained to prevent the reestablishment of the exotics.
11 Every six (6) months thereafter the site shall be surveyed to
12 ensure exotic removal is completed. A report verifying the
13 removal shall be submitted to ERM by a licensed landscape
14 architect. In the event the County exercises its option on
15 the surety pursuant to Section 9.5.F.3.a.(1)(c) above, this
16 maintenance and monitoring requirement shall cease.
- 17 b. Option for Single Family Residential Lot Owners to accept a
18 minimum alteration option in lieu of establishing a Natural
19 Area Preserve. Applications for permits for site development
20 on lots for single-family or single two-unit (duplex)
21 residences may elect the Minimum Alteration Option in lieu of
22 meeting the preserve requirements, provided the intent and
23 conditions of this subsection are met.
- 24 1) Intent. It is the intent of this option to maximize
25 protection of native vegetation by minimizing alterations
26 associated with single-family residential development. By
27 designating this option, the property owner agrees to
28 maintain the remainder of the property in its natural state,
29 including canopy, subcanopy, and groundcover vegetation with
30 the exception of removal of prohibited species. Only periodic
31 limited activities associated with fuel load reduction and
32 passive recreation may occur in the uncleared portions of the
33 property. This does not include regular mowing of all the
34 groundcover.
- 35 2) Conditions. To qualify for this option, all of the following
36 conditions shall be met:
- 37 a) The site is not located within a rare or endangered ecosystem
38 such as scrub, nor does it constitute significant habitat for
39 listed species.
- 40 b) No specimen trees shall be adversely impacted.
- 41 c) One (1) acre or less total area shall be impacted for all
42 development on the lot, such as but not limited to entrance
43 road, housepad, swimming pool, lawn area, and utilities.
- 44 d) If the prohibited species removal generates cleared areas,
45 then the allowed one (1) acre shall incorporate the cleared
46 areas to the greatest extent possible.
- 47 e) Property owners who have elected this option shall notify any
48 prospective buyer, prior to sale of the property, of these
49 vegetation protection requirements.
- 50 f) Any additional or future vegetation removal, such as but not
51 limited to clearing for livestock, shall require compliance
52 with the preserve requirements contained in this Section. The
53 original preserve as calculated and designated shall be
54 established under a Conservation Easement with a Management
55 Plan.
- 56 c. Option for Cash Payment in lieu of establishing a Natural
57 Area Preserve. ERM shall have the option of accepting a cash
58 payment in lieu of setting aside a preserve. The monies shall
59 accumulate in the Palm Beach County Natural Areas Stewardship
60 Endowment Fund for the management of native ecosystems.

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- 1 1) In order to grant this option, the following conditions shall
2 be met:
- 3 a) The request shall be submitted to ERM prior to Development
4 Review Committee approval or issuance of a building
5 construction permit;
6 b) The cash payment shall be equivalent to the average per acre
7 appraised value, at the time of permit application,
8 multiplied by the number of acres required to be preserved.
9 ERM retains the option for requesting a second appraisal for
10 which this option is based.
11 c) The cash payment shall be made payable to the Palm Beach
12 County Natural Areas Stewardship Endowment Fund and shall be
13 received prior to issuance of the permit or site plan
14 certification;
15 d) If listed species are determined to be on site, the cash
16 payment option may be approved if the applicant successfully
17 demonstrates that the proposed action will not preclude the
18 continued survival and viability of the listed species, or a
19 plan is approved by all appropriate agencies for relocating
20 those species on site or off site.
- 21 e) For Commercial Agriculture, this cash payment option may
22 allow commencement of site development prior to submittal of
23 the cash payment through compliance with the following
24 additional requirements:
- 25 (1) Deed restriction or covenant. A deed restriction or covenant
26 shall be placed on the parcel which limits the use to
27 commercial agriculture, and the property owner agrees to
28 make the cash payment to the Palm Beach County Natural Areas
29 Stewardship Endowment Fund at the time the site is converted
30 to a nonagricultural land use; and
31 (2) Appraised value. The cash payment amount shall be calculated
32 based on the appraised value at the time of the conversion
33 of the parcel to a non-agricultural use.
- 34 d. Option for alternative mitigation for publicly-owned parcels.
35 Projects proposed for publicly-owned (PO) parcels may propose
36 alternative mitigation that meets the purpose and intent of
37 this section. The alternative mitigation proposals shall be
38 reviewed and a determination made by the County Administrator
39 or his designee in consultation with the Director of ERM.
- 40 G. SPECIMEN TREE PERMITS. Trees that have attained the size and
41 stature to meet the "specimen" designation are trees that are
42 an important natural resource of Palm Beach County and
43 deserve special protection. All applications for permits
44 shall comply with the conditions and requirements of this
45 subsection.
- 46 1. Definition. A Specimen Tree is a tree that has attained an
47 age where its size, stature, health, and appearance
48 contributes to the aesthetics of an area. A specimen tree may
49 be native or non-native. Trunk sizes designating specimen
50 stature of the most commonly found native tree species are
51 contained in subsection 3 below. All other tree species,
52 exclusive of those trees listed in subsection 2 below, not
53 listed are defined as specimen trees if the trunk has
54 attained a diameter size of at least thirty three (33)
55 percent that of the Florida Division of Forestry's listed
56 champion.
- 57 2. The following trees are not considered specimen trees:

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- 1 a. Non-native fruit trees that are cultivated or grown for the
2 specific purpose of producing edible fruit, such as citrus,
3 avocados, mangos;
- 4 b. Prohibited and invasive non-native plant species as defined
5 in this Section including the Norfolk pine (*Araucaria excelsia*);
6 and
- 7 c. All non-native multi-trunk palms.
- 8 **3. Specimen Tree list.** The following list includes the most
9 commonly found native trees in Palm Beach County with the
10 Specimen size trunk diameter at breast height (dbh) and
11 circumference calculations in inches:
- | Common Name | Scientific Name | Trunk Size (in inches) | |
|--------------------|--|------------------------|---------------|
| | | dbh | circumference |
| Bald Cypress | <i>Taxodium distichum</i> | 13 | 42 |
| FL Strangler Fig | <i>Ficus aurea</i> | 25 | 78 |
| Green Buttonwood | <i>Conocarpus erecta</i> | 13 | 42 |
| Gumbo Limbo | <i>Bursera simaruba</i> | 13 | 41 |
| Laurel Oak | <i>Quercus laurifolia</i> | 17 | 56 |
| Live Oak | <i>Quercus virginiana</i> | 22 | 72 |
| Red Maple | <i>Acer rubrum</i> | 13 | 40 |
| Red Mulberry | <i>Morus rubra</i> | 13 | 43 |
| Sand Pine | <i>Pinus clausa</i> | 8 | 27 |
| Seagrape | <i>Coccoloba uvifera</i> | 10 | 32 |
| Slash Pine | <i>Pinus ellioti</i> var. <i>densa</i> | 14 | 45 |
| Southern Red Cedar | <i>Juniperus silicicola</i> | 21 | 64 |
| Sweet Bay | <i>Magnolia virginiana</i> | 12 | 38 |
- 27 **4. Requirements.** All sites undergoing development shall comply
28 with the following conditions:
- 29 a. Site plans shall be developed to incorporate Specimen Trees
30 in place in the site design to the greatest extent possible;
- 31 b. Specimen Trees shall be relocated if there is no construction
32 alternative which allows incorporation of the tree into the
33 site design.
- 34 c. If Specimen trees cannot be relocated, ERM may allow
35 replacement plantings consisting of native tree species
36 pursuant to the Tree Credits Table provided in Section I.5.
- 37 d. Relocated specimen trees shall be provided with irrigation,
38 mulching, and other means to ensure survivorship. If
39 relocated specimen trees do not survive, they shall be
40 replaced with native tree species pursuant to the Tree
41 Credits Table.
- 42 **H. REMOVAL OF PROHIBITED PLANT SPECIES.** By the year 2006, all
43 developed property approved or constructed prior to April 28,
44 1986, shall have prohibited plant species removed by the
45 property owner. Developed property approved or constructed on
46 or after April 28, 1986, shall be maintained free of
47 prohibited plant species.
- 48 **I. ADMINISTRATIVE REQUIREMENTS.**
- 49 **1. Fees.** Fees shall be required as established by resolution of
50 the Board of County Commissioners. Fees are non-refundable

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- 1 and non-transferable.
- 2 **2. Appeals.** An applicant for any permit may appeal a final
3 determination made by the Director of ERM to the
4 Environmental Ordinance Appeals Board pursuant to this
5 section. The applicant shall comply with the following appeal
6 procedures:
- 7 **a. Submittal.** A written appeal must be made within twenty (20)
8 days of the applicant's receipt of the final action.
- 9 **b. Hearing.** Each hearing shall be held within sixty (60) days of
10 submittal of all documents which the Environmental Ordinance
11 Appeals Board deems necessary to evaluate the appeal. At the
12 conclusion of the hearing, the Environmental Ordinance
13 Appeals Board shall orally render its decision (order), based
14 on evidence entered into the record. The decision shall be
15 stated in a written order and mailed to the applicant no
16 later than ten (10) days after the hearing. Written orders of
17 the Environmental Ordinance Appeals Board shall be final.
- 18 **c. Judicial Relief.** An applicant or ERM may appeal a final
19 written order of the Environmental Ordinance Appeals Board
20 within thirty (30) days of rendition of the written order by
21 filing a petition for Writ of Certiorari in Circuit Court of
22 the Fifteenth Judicial Circuit in and for Palm Beach County,
23 Florida.
- 24 **3. Violations.** A violation of this section shall be defined as
25 follows:
- 26 **a.** The alteration or removal of one (1) specimen tree(s) or the
27 alteration or removal of vegetation in any manner defined by
28 this section, of up to fifteen hundred (1,500) square feet in
29 extent without a current and valid permit or unless expressly
30 exempt under the provisions set forth in this section.
31 Alteration or removal of each additional specimen tree and
32 alteration of each additional fifteen hundred (1,500) square
33 feet tract of vegetation or portion thereof in violation of
34 this section shall constitute a separate violation; or
- 35 **b.** Failure to comply with a condition of a permit or a
36 requirement of an approved Preserve Management Plan issued by
37 ERM pursuant to this section.
- 38 **c.** Failure to notify a prospective buyer in writing of the
39 applicable restrictions and requirements wherein the Minimum
40 Alteration Option was exercised in lieu of a preserve.
- 41 **4. Enforcement.** In order to enforce compliance with the
42 provisions of this section, ERM may issue a cease and desist
43 order or require that a building permit or C.O. be withheld.
44 Violations of the provisions of this section shall be
45 punishable by one or more of the following:
- 46 **a.** Triple permit fees for permits not obtained prior to
47 violations involving activities which would otherwise have
48 been permissible as determined by ERM.
- 49 **b.** Enforcement of this section shall be through the remedies as
50 outlined in Article 14.
- 51 **c.** Notwithstanding, all enforcement remedies available, pursuant
52 to Article 14, do not prevent the County from enforcing the

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provisions of this section by any other measures allowable by law, including but not limited to, Chapters 125 and 162, Fla. Stat., as may be amended.

5. Restoration. Damage to native vegetation may result in an order to restore to pre-existing site conditions. When existing native trees are removed or damaged without a permit or when trees that were to be preserved in place or relocated are damaged or destroyed during activities conducted with a permit, they shall be replaced in accordance with the following Tree Credits Table:

TREE CREDITS TABLE

Crown Spread	DBH (in inches)	Number of Replacement Trees
90 feet or greater	37 or more	8
60-89 feet	32 to 37	7
50-59 feet	27 to 32	6
40-49 feet	22 to 27	5
30-39 feet	17 to 22	4
20-29 feet	12 to 17	3
10-19 feet	7 to 12	2
5-10 feet	2 to 7	1
less than 5 feet	less than 2	0

Replacement trees shall be at least twelve (12) feet in height, three (3) inches dbh, and consist of native species.

6. Additional sanctions. The County shall take any other appropriate legal action, including, but not limited to, administrative action, and requests for temporary and permanent injunctions to enforce the provisions of this section.

7. Pollution Recovery Trust Fund. All monies collected as civil penalties for violations of this section shall be deposited in the Palm Beach County Pollution Recovery Trust Fund.

J. GLOSSARY OF TERMS. Terms used in this section shall have the following definitions. Additional terms defined in Article 3 may not apply to this section.

1. Alteration means the result of human-caused activity which modifies, transforms or otherwise changes the vegetation, including but not limited to the following activities:

- a) The removal, displacement, mowing, or disturbance (severe pruning, hatracking or inter-nodal cutting, or poisoning) of vegetation excluding prescribed burns for the management of native vegetation communities;
- b) Additional removal, displacement, demucking or disturbance of soil, rock, minerals or water;
- c) Introduction of livestock for grazing, such as cattle and horses;
- d) Placement of vehicles, structures, debris or other material objects thereon, including introduction or injection of water and other substances.

2. Diameter at breast height (dbh) means the diameter of a tree trunk measured at a point four and one half (4.5) feet above the ground.

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- 1 3. Environmentally sensitive lands mean ecological sites
2 (ecosites), other than wetlands, that are designated in the
3 Inventory of Native Ecosystems in Palm Beach County and on
4 its accompanying aerial photographs as "A" quality,
5 representing high-quality native Florida upland ecosystems.
6 These sites are indicated on the aerial photographs (received
7 on May 30, 1989) that are on file at ERM and are incorporated
8 herein by reference. Inventory of Native Ecosystems in Palm
9 Beach County is a report and annotated aerials produced
10 during the study with this title, which was conducted by
11 consultants under contract to Palm Beach County.
- 12 4. Exotic plant species means a plant species not indigenous to
13 Florida including those plants listed as prohibited and
14 invasive non-native plant species in this section.
- 15 5. Listed species means any species listed as endangered,
16 threatened, rare, or of special concern by one (1) or more of
17 the following agencies:
- 18 a. U.S. Fish and Wildlife Service;
19 b. Florida Game and Fresh Water Fish Commission;
20 c. Florida Committee on Rare and Endangered Plants and Animals;
21 d. Florida Department of Agriculture and Consumer Services; and
22 e. Treasure Coast Regional Planning Council.
- 23 6. Native tree(s) or native vegetation means plants species with
24 a natural geographic distribution indigenous to Florida.
25 Plant species introduced by humans are not native vegetation.
- 26 7. Native upland vegetation means the plant component of a
27 native Florida upland community, (a characteristic assemblage
28 of native plant and animal species which are interrelated and
29 occupy predominantly upland terrain), which includes intact
30 upland vegetation, such as Florida scrub, pine flatwoods,
31 scrubby flatwoods, hammocks, and dry prairies.
- 32 8. Tree means a woody or fibrous perennial plant commonly with a
33 single stem and having a minimum trunk dbh of three (3)
34 inches and having a more or less defined crown, that usually
35 grows to at least four (4) meters or thirteen (13) feet in
36 height at maturity.
- 37 9. Tree survey means a comprehensive survey document or site
38 plan that provides site specific information for trees three
39 (3) inches or greater dbh or for palm trees with an overall
40 clear trunk height of eight (8) feet that are on the site.
41 The survey shall be performed by a Florida-licensed land
42 surveyor, and ERM shall determine the applicability and the
43 extent of each survey.
- 44 Subpart Section 10.1.A., Impact Fees, General, Intent, authority
45 and findings is amended to delete language as follows:
- 46 A. Intent, authority and findings.
- 47 1. Intent. This article is intended to implement and be
48 consistent with the Comprehensive Plan and to regulate the
49 use and development of land. It is the intent of Palm Beach
50 County that new development shall bear a proportionate share
51 of the cost of capital expenditures necessary to provide
52 park, fire-rescue, library, law enforcement, public building,
53 schools and road capital facilities in Palm Beach County as
54 is contemplated in the Comprehensive Plan.

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1 Impact fees shall not be used to collect more than is
2 necessary to fund such capital facilities. The impact fees in
3 this article are based on the Impact Fee Report, as amended,
4 ~~and the methodology adopted for Fair Share Road Impact Fees,~~
5 which establish a fair and equitable allocation of costs and
6 recognize past and future payments from new development, as
7 well as credits for in-kind contributions, and municipal
8 provision of like facilities under certain circumstances.

9 Funds collected from impact fees shall not be used to replace
10 existing capital facilities or to fund existing deficiencies,
11 but only to provide for new capital facilities which as
12 necessitated by new development.

13 **Subpart** Section 10.1.E., Impact Fees, Computation of Fee is
14 amended to add language and renumber sections as
15 follows:

16 **E. Computation of fee.**

17 ...

18 5. Errors and Omissions. Errors and omissions identified by the
19 Internal Auditor or other County reviewing personnel within
20 four (4) years of building permit issuance shall be corrected
21 by the affected parties, including the feepayer. Impact fees in
22 effect at the time of permitting shall be collected when
23 identified. Computational or clerical errors do not excuse the
24 affected parties, including the feepayer, from paying all
25 impact fees due.

26 ~~5-~~ 6.

27 **Subpart** Section 10.1.F.2., Impact Fees, Independent fee
28 calculation study, Submission of application is amended
29 to add and delete language as follows:

30 **F. Independent fee calculation study.**

31 ...

32 2. Submission of application. The application for an
33 independent calculation study shall be submitted to the Impact
34 Fee Coordinator, except except that an independent calculation
35 study for road impact fees shall be submitted simultaneously to
36 the Impact Fee Coordinator and the County Engineer. The
37 application for an independent calculation study must be
38 submitted and an escrow agreement in a form acceptable to the
39 County shall be executed, prior to permit issuance. A feepayer
40 failing to submit an independent fee calculation study and an
41 executed escrow agreement to the Impact Fee Coordinator prior
42 to permit issuance is deemed to have waived the right to an
43 impact fee adjustment based on the independent fee calculation
44 study.

45 ...

46 4. Determination of sufficiency. The Impact Fee Coordinator
47 shall determine if the application is sufficient within five
48 (5) working days of its receipt. a- If the Impact Fee
49 Coordinator determines the application is not sufficient, a
50 written notice shall be mailed to the applicant specifying
51 the deficiencies. No further action shall be taken on the
52 application until the deficiencies are remedied.

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i ~~b~~.a....

2 . . .

3 6. **Covenant running with the land.** The Impact Fee Coordinator
4 shall require that a covenant running with the land be
5 executed and recorded in the official records of the Clerk of
6 the Circuit Court on the development's land before the
7 building permit is issued in cases where:...

8 **Subpart** Section 10.1.G.4., Impact Fees, Collection and
9 Administrative Fees, Record keeping is amended to delete
10 language as follows:

11 **4. Record keeping.** Records shall be maintained by all local
12 governments to ensure proper accounting controls. Palm Beach
13 County shall have the authority to audit the record of any
14 municipality to ensure the procedures and standards of this
15 section are being met by the municipality. Public reports on
16 impact fees shall be provided by the Impact Fee Coordinator on at
17 least an semi-annual basis and distributed to each municipality.
18 Such reports will account for receipts of impact fees for each
19 impact fee, by benefit zone and municipality, and encumbrances
20 and expenditures of the funds by zone.

21 **Subpart** Section 10.1.J.2.a., Impact Fees, Refunds, Procedures to
22 obtain refund, Submission of application is amended to
23 add language as follows:

24 J. Refunds.

25 . . .

26 2. Procedure to obtain refund.

27 a. **Submission of application.** An application for refund shall be
28 submitted to the Impact Fee Coordinator on a form provided by
29 the Impact Fee Coordinator.

30 . . .

31 **Subpart** Section 10.1.K.1.a., Impact Fees, Credits, General, is
32 amended to add language as follows:

33 K. Credits.

34 1. General....

35 a. Submission of application. An application for credit shall be
36 submitted to the Impact Fee Coordinator on a form provided by
37 the Impact Fee Coordinator.

38 a. b.

39 . . .

(2) ~~Certification. In the case of an addition to an existing residential building, t~~ The feepayer shall provide to the local government issuing the building permit a certification of an architect, engineer, surveyor, contractor, or the building official having jurisdiction, setting forth the square footage of the existing building. In the case of an addition to an existing residential building, the feepayer, at the feepayer's sole option, may pay the impact fee for the addition as if it alone were a new building rather than

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1 provide the certification setting for the square footage of
2 an existing building.

3 ~~b. c.~~
4 ~~e. d.~~
5 ~~d. e.~~
6 ~~e. f.~~
7 ~~f. g.~~
8 ~~g. h.~~
9 ~~h. i.~~
10 ~~i. j.~~

11 **Subpart** Section 10.5.E., Law Enforcement Impact Fees, Use of law
12 enforcement impact fees is amended to delete language as
13 follows:

14 **10.5.E. Use of law enforcement impact fees.** The Sheriff shall
15 identify in the Sheriff's budget those new capital facilities for
16 which law enforcement impact fees shall be spent. The funds shall
17 remain restricted to their respective trust funds and the
18 requirements of this article, and the Sheriff shall ensure that
19 the funds are expended and accounted for in accordance with this
20 article. The Sheriff shall maintain such records and
21 documentation necessary to allow the effective audit of the use
22 of the law enforcement impact fees. The County's internal auditor
23 shall have authority to require accounting controls and
24 documentation, and shall have the authority to audit the use of
25 law enforcement impact fees. Palm Beach County may require
26 special impact fee reports by the auditor performing an audit of
27 the Sheriff's accounts. ~~An intergovernmental agreement between~~
28 ~~Palm Beach County and the Sheriff shall be entered into to ensure~~
29 ~~compliance with, and to administer, this article.~~

30 **Subpart** Section 11.1.C., Adequate Public Facility Standards,
31 Exemptions is amended to add and delete language and
32 renumber as follows:

33 **C. Exemptions.** The following shall be exempt from the
34 requirements of this article.
35 ...

36 2. A residential lot of record which (a) meets the density
37 requirements of the 1989 Comprehensive Plan, as amended, or
38 (b) qualifies for an administrative order exempting it from
39 the density requirement of the Plan.

40 ~~2-3.~~
41 ~~3-4.~~
42 ~~4-5.~~
43 ~~5-6.~~

44 **Subpart** Section 14.2., Enforcement by Code Enforcement Board
45 and/or Special Master is amended to delete language as
46 follows:

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1 **SEC. 14.2 ENFORCEMENT BY CODE ENFORCEMENT BOARD AND/OR SPECIAL**
2 **MASTER.** The Code Enforcement Board and/or Special
3 Master shall have the jurisdiction and authority to
4 hear and decide alleged violations of the codes and
5 ordinances enacted by Palm Beach County including, but
6 not limited to the following codes: building,
7 electrical, fire, gas, landscape, plumbing, sign,
8 zoning and any other similar type codes which may be
9 passed by Palm Beach County in the future which
10 regulate aesthetics, construction, safety, or location
11 or any structure on real property in Palm Beach County.
12 Further, any violation(s) of Articles 1 through 8 and
13 Articles 10 through 12, except Secs. ~~7.5 and 7.6~~, of
14 this Code may be prosecuted pursuant to the following
15 standards and procedures. For the purposes of this
16 Section 14.2, the term "repeat violation" shall mean a
17 violation of a provision of a code or ordinance by a
18 person whom the Code Enforcement Board of Special
19 Master has previously found to have violated the same
20 provision within five years prior to the violation.

21 **Subpart** Section 14.2.D.2., Enforcement by Code Enforcement
22 Board, Administrative fines; costs; liens is amended to
23 add language as follows:

24 2. A fine imposed pursuant to this Section shall not exceed \$250
25 per day for a first violation and shall not exceed \$500 per
26 day for a repeat violation, and, in addition, may include all
27 costs of repairs pursuant to paragraph 1. of this Section.
28 If, after due notice and hearing, a code enforcement board
29 finds a violation to be irreparable or irreversible in
30 nature, it may impose a fine not to exceed \$5,000 per
31 violation or as otherwise authorized by Florida State
32 Statute. In determining the amount of fine, if any, the Code
33 Enforcement Board and/or Special Master shall consider the
34 following factors: 1) the gravity of the violation; 2) any
35 actions taken by the violator to correct the violation; and
36 3) any previous violations committed by the violator.

37 **Subpart** Section 14.3., Groundwater and Natural Resources
38 Protection Board is amended to add and delete language
39 as follows:

40 **SEC.14.3 GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD.** Any
41 violation of Art.9 (except Sec. 9.4), ~~Sec. 7.5~~, or Sec.
42 7.6, of this Code may be referred by ERM and prosecuted
43 by the Groundwater and Natural Resources Protection
44 Board pursuant to the following standards and
45 procedures.

46 **A. Warning of violation.** If an alleged violation of Art. 9
47 (except Sec. 9.4), ~~Sec. 7.5 or Sec. 7.6~~ of this Code is
48 found, the Director of ERM shall notify the alleged property
49 owner and/or violator and give the alleged property owner
50 and/or violator reasonable time to correct the violation. ~~If~~
51 ~~the alleged violation is causing irreparable and irreversible~~
52 ~~harm, the Director of ERM shall make a reasonable effort to~~
53 ~~notify the violator and may immediately notice the~~
54 ~~Groundwater and Natural Resources Protection Board and~~
55 ~~request a hearing.~~

56 **B. Issuance of violation citation.** Should the violation continue
57 beyond the time specified for correction, or irreparable ~~and~~
58 or irreversible harm has occurred, or the violation presents

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1 costs; liens) of this Article.
2 7. Lien property pursuant to Sec. 14.3.H. (Administrative fines;
3 costs; liens) of this Article.
4 8. Assess costs pursuant to Sec. 14.3.H.

5 **H. Administrative fines; costs; liens.**

6 1. Whenever one of the Groundwater and Natural Resources
7 Protection Board's orders has not been complied with by the
8 time set for compliance, or upon finding that a repeat
9 violation has been committed, the Groundwater and Natural
10 Resources Protection Board may order the violator to pay a
11 fine in an amount specified in this section for each day the
12 violation continues past the date for compliance set forth in
13 the order, or in the case of a repeat violation, for each day
14 the repeat violation continues, beginning with the date the
15 repeat violation is found to have occurred by the code
16 inspector. In addition, if the violation is a violation
17 described in Section 14.3.B., the Groundwater and Natural
18 Resources Protection Board shall notify the Board of County
19 Commissioners, which may make all reasonable repairs or other
20 corrective actions which are required to bring the property
21 into compliance and charge the violator with the reasonable
22 costs of the repairs or other corrective actions along with
23 the fine imposed pursuant to this section. If a finding of a
24 violation or a repeat violation has been made as provided in
25 this part, a hearing shall not be necessary for issuance of
26 the order imposing the fine.

27 Persons charged with such violation(s) may include:

28 a. The owner, agent, lessee, tenant, contractor, or any other
29 person using the land, building, or premises where such
30 violation has been committed or shall exist.
31 b. Any person who knowingly commits, takes part or assists in
32 such violation.
33 c. Any person who maintains any land, building, or premises in
34 which such violation shall exist. if the same violation has
35 been repeated by the same violator, the Groundwater and
36 Natural Resources Protection Board may order the violator to
37 pay a fine not to exceed two hundred fifty dollars (\$250.00)
38 for each day thereafter during which each violation continues
39 past the date set for compliance, and up to five hundred
40 dollars (\$500) for each day for a repeat violation. In
41 determining the amount of a fine, the Groundwater and Natural
42 Resources Protection Board shall consider the following
43 factors: (a) the gravity of the violation(s); (b) any actions
44 taken by the violator to correct the violation(s); and (c)
45 any previous violations committed by the violator. The
46 Groundwater and Natural Resources Protection Board may
47 consider any other factors pertaining to the violator or
48 violation(s) which it deems relevant and shall not be limited
49 to the above recited factors.

50 2. A fine imposed pursuant to this Section shall not exceed \$250
51 per day for a first violation and shall not exceed \$500 per
52 day for a repeat violation, and in addition, may include all
53 costs of repairs pursuant to paragraph 1. of this Section.
54 For violations deemed irreparable or irreversible by the
55 Groundwater and Natural Resources Protection Board, the Board
56 may impose a fine not to exceed five thousand (\$5,000)
57 dollars per violation, pursuant to Section 162.09, Fla. Stat.
58 as may be amended. In determining the amount of a fine, the
59 Groundwater and Natural Resources Protection Board shall

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consider the following factors: (a) the gravity of the violation(s); (b) any actions taken by the violator to correct the violation(s); and (c) any previous violations committed by the violator.

2-3. The Director of ERM may record a certified copy of an order imposing a fine in the public records in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida. Once recorded the certified copy of an order shall constitute a lien against the land on which the violation(s) exists, ~~or if the violator does not own the land, and~~ upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment, by the Sheriff, including levy against the personal property. Once recorded the lien shall be superior to any mortgages, liens, or other instruments recorded subsequent to the filing of the Groundwater and Natural Resources Protection Board lien.

3-4. After six (6) months from the filing of any such lien which remains unpaid, the County may foreclose the lien in the same manner as mortgage liens are foreclosed. Such lien shall be superior to all other liens except liens for taxes, and shall bear interest at the rate of ten percent (10%) per annum from the date recorded. No lien created pursuant to the provisions of this ordinance may be foreclosed on real property which is a homestead under Article X, Section 4, of the Florida Constitution.

Subpart Section 14.6.A., Administrative Remedies for Article 9, Section 7.5 (Vegetation Preservation and Protection) and Section 7.6 (Excavation), Conditions is amended to add and delete language as follows:

SEC. 14.6 ADMINISTRATIVE REMEDIES FOR ARTICLE 9, ~~SECTION 7.5~~
~~(VEGETATION PRESERVATION AND PROTECTION)~~ AND SECTION 7.6
(EXCAVATION). In order to provide an expeditious settlement that
would be beneficial to the enforcement of the provisions of
Article 9, ~~Sec. 7.5~~ and Sec. 7.6 and be in the best interest of
the citizens of Palm Beach County, the Director of ERM is
authorized to enter into voluntary consent (settlement),
agreements with alleged violators. Any such agreement shall be a
formal written ~~consent~~ agreement between the Department of
Environmental Resources Management on behalf of Palm Beach
County, by and through its Director, and any such alleged
violators, and shall be approved as to form and legal sufficiency
by the County Attorney's Office.

A. Conditions. Such consent agreements may be conditioned upon a promise by the alleged violator to:

• • •

3. Remit payment for compensatory damages, and nonperformance penalties and costs and expenses of the County in tracing the source of the discharge, in controlling and abating the source of the pollutants and the pollutants themselves, and in restoring the waters and property, including animal, plant and aquatic life, of the County to their former conditions; and costs of the County for investigation, enforcement, testing, monitoring, and litigation; such monies to be deposited in the Palm Beach County Pollution Recovery Trust Fund; or

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1 4. Any other remedies and/or corrective action provided for in
2 the applicable act, delegated authority or Code, deemed
3 necessary and appropriate by the Director of ERM to ensure
4 compliance with such act or Code.

5 **Subpart** Section 15(I)B - Traffic Performance Standards,
6 Definitions, Subsection 2. Terms Herein is amended to
7 add language as follows:

8 **ADOPTED LEVEL OF SERVICE** - Generally Level of Service D; however,
9 it may be another Level of Service set by the Plan or pursuant to
10 Policies of the Traffic Circulation Element. For Test 2 it is
11 Level of Service E. It need not be a whole letter range, it may
12 be a portion of a letter range. (See: e.g., Level of Service D,
13 Level of Service E).

14 **DOWNTOWN REVITALIZATION** - The physical and economic renewal of a
15 central business district of a community as designated by the
16 local government in its Comprehensive Plan, and including both
17 downtown development and redevelopment.

18 **SPECIAL PART TIME DEMAND** - A development that does not have more
19 than 200 scheduled events during any calendar year and does not
20 affect the 100 highest traffic volume hours. An event that is
21 scheduled on multiple days shall be considered multiple events.

22 **EXISTING URBAN SERVICE AREA** - An area defined and mapped in a
23 local government comprehensive plan that is a built-up area where
24 public facilities and services such as sewage treatment systems,
25 roads, schools, and recreation areas are already in place.

26 **URBAN INFILL** - The development of vacant parcels in otherwise
27 built-up areas where public facilities such as sewer systems,
28 roads, schools, and recreation areas are already in place and the
29 average residential density is at least five (5) dwelling units
30 per acre, the average non-residential intensity is at least a
31 floor area ratio of 1.0 and vacant developable land does not
32 constitute more than 10 percent of the area.

33 **URBAN REDEVELOPMENT** - Means demolition and reconstruction or
34 substantial renovation of existing buildings or infrastructure
35 within urban infill areas or existing urban service areas.

36 **Subpart** Section 15(I)C - Traffic Performance Standards,
37 Applicability, Subsection 2. Previously-approved
38 Development Orders, (B) Existing Use is amended to add
39 language as follows:

40 ...

41 **(B) Existing Use** - Any application for a SITE SPECIFIC
42 DEVELOPMENT ORDER on property on which there is an existing use
43 shall be subject to this Code's standards to the extent the
44 traffic generation projected for the SITE SPECIFIC DEVELOPMENT
45 ORDER exceeds the traffic generation of the existing use, or
46 increases traffic through a redistribution of traffic from the
47 existing use (as determined using generation and Pass-by rates in
48 accordance with generally accepted traffic engineering
49 principles) on the Major Thoroughfare system. For purposes of
50 this paragraph B, the use of a structure or land that has been

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1 abandoned for more than five (5) years shall not be considered an
2 existing use.
3 An urban redevelopment project located within a defined and
4 mapped existing urban service area, shall not be subject to the
5 standards of this section, for up to 110 percent of the traffic
6 generation of the previously existing development. The previously
7 existing use shall be the last actual previous use that was
8 active on a specific site within the preceding five (5) years.

9 **Subpart** Section 15.(I)C., Traffic Performance Standards,
10 Applicability is amended to add and delete language as
11 follows:

12 **Subsection 3. Non-applicability**

13 ...

14 **(B) Development Order Time Limit Criteria** - This Section shall
15 not apply to Palm-Beach-County initiated petitions to lower
16 density/intensity under Development Order Time Limit Criteria in
17 ~~Section H Sec. 5.8~~ of the Unified Land Development Code of Palm
18 Beach County, Florida. Nothing herein shall preclude the review
19 of approvals under Development Order Time Limit Criteria, for
20 consistency with this Section.

21 ...

22 **Subpart** Section 15(I)C - Traffic Performance Standards,
23 Applicability, Subsection 3.(D) Special Events is
24 amended to add language as follows:

25 **(D) Special Events** - The standards of this Section shall not
26 apply to SITE SPECIFIC DEVELOPMENT ORDERS issued for special
27 events or SPECIAL PART TIME DEMAND.

28 (1) For purposes of this Section, a special event is an activity
29 or use which does not exceed three weeks a year, occurs no more
30 frequently than once a year, and is public or quasi-public in
31 nature. It includes auto races; Fourth of July activities;
32 parades; and festivals. It does not include recurring events such
33 as baseball games, football games, concerts, races, and the like
34 held in stadiums, amphitheaters, or other permanent facilities
35 even if such facilities are used for special events. Each special
36 event shall constitute a separate special event for the purpose
37 of calculating the number of weeks of the event. If the Plan is
38 amended to provide more stringent provisions as to this
39 exception, the Plan shall control.

40 (2) For the purposes of this Section, a SPECIAL PART TIME DEMAND
41 event is a development that does not have more than 200 scheduled
42 events during any calendar year and does not put traffic on the
43 roadway system during the 100 highest traffic hours.

44 (a) The 100 highest traffic hours for the area of the SPECIAL
45 PART TIME DEMAND shall be determined by the COUNTY ENGINEER
46 based on information from permanent count stations.

47 (b) The development shall not be permitted if the daily traffic
48 generated during a scheduled event has an impact that exceeds
49 5% of the LOS D Standard Volume on a roadway on the Florida

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(d) A traffic report shall be prepared that identifies the trip generation of the development, the modal split (if any), the location of the development, and the month and time of day of scheduled events. The DEVELOPMENT ORDER for the development shall include monitoring and enforcement provisions restricting the development to the number and timing of the events.

Subpart Section 15(I)D - Traffic Performance Standards, Standard, Subsection 2., Buildout/Model Standards, TABLE 1A and TABLE 1B is amended to add language as follows:

TABLE 1A-1
LEVEL OF SERVICE D

	Peak Hour LOS D	ADT Test 1 LOS D	ALT Test 1 LOS D
FACILITY TYPE	STANDARD	STANDARD	STANDARD
2 lanes undivided	1,220	13,400	1,030
3 lanes two-way	1,280	14,000	1,080
2 lanes one-way	1,600	17,600	2,650
3 lanes one-way	2,460	27,000	4,000
4 lanes undivided	2,140	23,520	1,770
4 lanes divided	2,670	29,400	2,210
5 lanes divided	2,670	29,400	2,210
6 lanes divided	4,100	45,000	3,330
8 lanes divided	5,070	55,800	4,170
4 lanes expressway	6,070	68,900	3,450
6 lanes expressway	9,100	103,400	5,170
8 lanes expressway	12,130	137,900	6,890
10 lanes expressway	15,170	172,300	8,610

Source: FDOT Level of Service Manual, Generalized Daily Level of Service Maximum Volumes, Group C and Group 1, and Generalized Peak Hour/Peak Directional Level of Service Maximum Volumes, Group A and Group 1 for urbanized areas (April 1992).

NOTE: Table 1A-1 will become obsolete and Table 1A-2 will become effective upon the compliance finding for Comprehensive Plan Amendment 96-1.

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TABLE 1A-2
LEVEL OF SERVICE D
Test 1

FACILITY TYPE	Peak Hour	ADT	Alternate Test 1	
	Threshold	Threshold	Threshold	Threshold
	LOS D	LOS D	LOS D	LOS D
	STANDARD	STANDARD	STANDARD	STANDARD
			Signals per mile	
			0.00 to	2.50 to
			2.49	4.50
2 lanes undivided	1,330	14,300	880	760
3 lanes two-way	1,400	15,000	920	800
2 lanes one-way	1,730	18,700	2,270	1,970
3 lanes one-way	2,650	28,500	3,410	3,010
4 lanes undivided	2,170	23,300	1,420	1,230
4 lanes divided	2,890	31,100	1,890	1,640
5 lanes divided	2,890	31,100	1,890	1,640
6 lanes divided	4,420	47,500	2,840	2,510
8 lanes divided	5,390	58,000	3,480	3,060
4 lanes expressway	5,900	67,000	3,350	
6 lanes expressway	8,500	100,600	5,030	
8 lanes expressway	11,300	134,100	6,700	
10 lane expressway	14,800	167,700	8,380	

For the Detailed Analysis for Alternate Test One, Level of Service D shall be the Sum of the Critical Volumes of one thousand four hundred (1,400) in accordance with the Planning Method in the 1985 Manual.

TABLE 1B-1
LEVEL OF SERVICE E

FACILITY TYPE	Peak Hour	Alternate ADT Test 1	
	Test 1		
	LOS E	LOS E	LOS E
	STANDARD	STANDARD	STANDARD
2 lanes undivided	1,370	15,000	1,280
3 lanes two-way	1,450	15,700	1,340
2 lanes one-way	1,760	19,300	3,120
3 lanes one-way	2,660	29,300	4,670
4 lanes undivided	2,350	25,800	2,080
4 lanes divided	2,930	32,200	2,600
5 lanes two-way	2,930	32,200	2,600
6 lanes divided	4,440	48,800	3,890
8 lanes divided	5,550	60,400	4,870
4 lanes expressway	6,500	74,000	3,710
6 lanes expressway	9,780	111,200	5,560
8 lanes expressway	13,050	149,200	7,410
10 lanes expressway	16,310	185,300	9,260

Source: FDOT Level of Service Manual, Generalized Daily Level of Service Maximum Volumes, Group C and Group 1, and Generalized Peak Hour/Peak Directional Level of Service Maximum Volumes, Group A and Group 1 for urbanized areas (April 1992).

NOTE: Table 1B-1 will become obsolete and Table 1B-2 will become effective upon the compliance finding for Comprehensive Plan Amendment 96-1.

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TABLE 1B-2
LEVEL OF SERVICE E

FACILITY TYPE	Test 1			
	Peak Hour	ADT	Alternate Test 1	
	Threshold	Threshold	Threshold	Threshold
	LOS E	LOS E	LOS E	LOS E
	STANDARD	STANDARD	STANDARD	STANDARD
	Signals per mile			
	0.00 to		2.50 to	
	2.49		4.50	
2 lanes undivided	1,480	15,900	900	840
3 lanes two-way	1,550	16,700	950	880
2 lanes one-way	2,000	20,400	2,270	2,160
3 lanes one-way	2,870	30,800	3,410	3,250
4 lanes undivided	2,370	25,500	1,420	1,350
4 lanes divided	3,160	34,000	1,890	1,800
5 lanes divided	3,160	34,000	1,890	1,800
6 lanes divided	4,780	51,400	2,840	2,710
8 lanes divided	5,850	62,900	3,480	3,320
4 lanes expressway	7,100	80,800	4,040	
6 lanes expressway	10,700	126,900	6,340	
8 lanes expressway	14,200	169,200	8,340	
10 lanes expressway	18,600	211,400	10,570	

For the Detailed Analysis for Alternate Test One, Level of Service E shall be the Sum of the Critical Volumes of one thousand five hundred (1,500) in accordance with the Planning Method in the 1985 Manual.

Subpart Section 15(I)D - Traffic Performance Standards, Standard, Subsection 2. (G) Reliance on Assured Road Construction is amended to add and delete language as follows:

(G) Reliance on Assured Road Construction (1) If a PROJECT is approved or phased based on ASSURED CONSTRUCTION, BUILDING PERMITS shall be granted for the phase or portion of the PROJECT approved based on the ASSURED CONSTRUCTION no sooner than the award of a contract by a governmental agency for the construction of the improvement, or the commencement of construction, subject to the following:

(1) If intersection improvements are required to meet Alternate Test 1 and there is a scheduled road construction project which would incorporate all or a portion of such intersection improvements, then the County Engineer, in his/her sole and exclusive discretion, may require payment for the cost of such intersection improvement provided all other requirements of the Traffic Performance Standards have been satisfied. In that event, upon receipt of the payment, BUILDING PERMITS shall be granted for a portion of the PROJECT which is phased to such intersection improvements. The payment shall be based on a certified engineering estimate accepted by the County Engineer.

~~(2) However, if~~ (2) ~~however, if~~ the ASSURED CONSTRUCTION is in the first three (3) years of the County's Five Year Road Program Ordinance as construction and was relied upon for the issuance of the SITE SPECIFIC DEVELOPMENT ORDER and the construction is subsequently deleted from the Palm Beach County Five Year Road Program Ordinance, BUILDING PERMITS for development that was phased to

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1 that ASSURED CONSTRUCTION shall be issued, but not sooner than
2 the end of the fiscal year construction was to commence. For
3 purposes of this paragraph, "deleted" shall mean the elimination
4 of the construction project, the material reduction in the scope
5 of construction work or funding thereof (as it affects the
6 construction project), the postponement of the construction
7 project for more than two years (one year for PROJECTS approved
8 prior to June 16, 1992) beyond the year the construction was
9 originally programmed in the first three (3) years of the
10 County's Five Year Road Program.

11 (3) Three Year grace period. Notwithstanding the requirements in
12 this Subsection, a PROJECT may receive a building permit if the
13 required roadway improvements are in the first 3 years of the
14 County 5 Year Road Program, and the PROJECT is in one of the
15 following geographic areas:

- 16 1. the Coastal Residential Exception Area,
17 2. the Westgate CRA,
18 3. the Lake Worth Road Corridor Study Area, or
19 4. the Glades communities.

20 **Subpart** Section 15(I)D - Traffic Performance Standards,
21 Standard, Subsection 2. (H) DRI is amended to add
22 language as follows:

23 **(H) DRI.** DEVELOPMENT ORDERS for a Development of Regional Impact
24 (DRI) with a project buildout of more than five (5) years may
25 meet Test One and Alternate Test One based on Development Order
26 conditions that phase building permits to the commencement of
27 ASSURED CONSTRUCTION for the first five years of the project and
28 the construction of identified roadway links in the 2010 Plan
29 Network beyond the first five years of the project. Any roadway
30 improvement required beyond the first five years must be ASSURED
31 CONSTRUCTION not less than three (3) years before the date that
32 the roadway improvement is required. No building permits within
33 the DRI that are phased to a roadway improvement may be issued
34 until the roadway improvement that the building permits are
35 phased to is under construction.

36 **Subpart** Section 15(I)J - Traffic Performance Standards,
37 Affordable Housing, Subsection 4.(D) Approval is amended
38 to add and delete language as follows:

39 **(D)** The applicant shall prepare a covenant approved by the
40 Commission on Affordable Housing, determined to be legally
41 sufficient by the County Attorney. The covenant, to be
42 recorded in the public records of Palm Beach County, shall
43 guarantee, for a period of at least ~~fifteen (15)~~ ten (10)
44 years for single family housing and ~~ten (10)~~ fifteen (15)
45 years for multi-family housing rental units, how the
46 affordability shall be maintained for units required to be
47 very low and/or low income (pursuant to income categories
48 and definition in the comprehensive plan, Housing Element).
49 The period of time these units will remain affordable shall
50 commence from the date of the issuance of the final
51 certificate of occupancy for the first required affordable
52 unit built in the Project. The covenant shall be recorded in
53 the Public Records of the Clerk of the Courts for Palm Beach
54 County prior to the submittal of an application for

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1 development approval.

2 **Subpart** Section 15(I)M - Traffic Performance Standards,
3 Transportation Concurrency Management Areas (TCMA) is
4 amended to add and delete language as follows:

5 Subsection 1. Intent.

6 ~~In order to further the implementation of identified important~~
7 ~~local and state planning goals and policies, this section~~
8 ~~provides for a Transportation Concurrency Management Area~~
9 ~~approach for ensuring that transportation facilities and services~~
10 ~~needed to support development are available concurrent with the~~
11 ~~impacts of that development. This Section is intended to be~~
12 ~~consistent with the applicable provisions of Rule 9J-5 of the~~
13 ~~Florida Administrative Code and Chapter 163, Part II of the~~
14 ~~Florida Statutes.~~

15 The purpose and intent of this optional alternative
16 transportation concurrency approach is to promote infill
17 development within selected portions of urban areas in a manner
18 that supports the provision of more efficient mobility
19 alternatives, including public transit. As a coordinated approach
20 to land use and transportation development, the use of an area
21 wide level of service standard and an accommodation and
22 management of traffic congestion may be employed. A
23 Transportation Concurrency Management Area is a compact
24 geographic area within existing or proposed multiple, viable
25 alternative travel paths or modes for common trips. section is to
26 encourage planning for an appropriate mix and intensity of land
27 uses within designated transportation concurrency management
28 areas, and to target these areas to become primary centers for a
29 mix of residential, retail, employment, recreational, cultural,
30 educational, and institutional facilities. Successful use of the
31 Transportation Concurrency Management Area approach will direct
32 growth into development patterns that better support alternatives
33 to single-occupant automobile transportation. It is recognized
34 that achievement of development intensities and densities and
35 mixed use patterns conducive to reducing dependency on single-
36 occupant automobile travel may require a long term strategy based
37 on directing development into more intensive patterns coupled
38 with and early and continued commitment to public transit and an
39 accommodation and management of traffic congestion. Therefore, a
40 long-term strategy may include use of a level of service
41 standards that are lower than required standards of this Section
42 15 as long as it can be demonstrated that long term land use
43 patterns and development and mobility goals are integrated,
44 internally consistent and achievable.

45 Subsection 2. ~~Criteria.~~ Area wide Level of Service.

46 ~~A Transportation Concurrency Management Area must ensure an~~
47 ~~adequate level of mobility and further the achievement of~~
48 ~~identified important local and state planning goals and policies.~~
49 ~~These include discouraging the proliferation of urban sprawl,~~
50 ~~encouraging the revitalization of existing downtowns or~~
51 ~~designated redevelopment areas, maximizing the efficient use of~~
52 ~~existing public facilities, protecting natural resources,~~
53 ~~protecting historic resources, and promoting public transit,~~

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1 bicycling, walking and other alternatives to the single occupant
2 automobile. These areas shall comply with the following criteria.

3 ~~(A) A Transportation Concurrency Management Area shall be~~
4 ~~compatible with and further various elements of the local~~
5 ~~government comprehensive plan, including but not limited to the~~
6 ~~Traffic Circulation Element, Mass Transit Element, Land Use~~
7 ~~Element, and the Capital Improvement Element.~~

8 ~~(B) A Transportation Concurrency Management Area shall contain or~~
9 ~~plan to contain an integrated and connected network of roadways~~
10 ~~and provide multiple, viable alternative travel paths and modes~~
11 ~~for common trips. Public transit service, transportation system~~
12 ~~management, and demand management programs shall also be provided~~
13 ~~or planned to be provided in the area.~~

14 ~~(C) A Transportation Concurrency Management Area shall consist of~~
15 ~~geographically compact area, such as:~~

16 ~~(1) Community Redevelopment Areas~~
17 ~~(2) Areas covered by an approved Downtown or Area wide~~
18 ~~Development of regional Impact~~
19 ~~(3) Regional activity centers designated in a comprehensive~~
20 ~~regional policy plan~~
21 ~~(4) Areas designated in a comprehensive regional policy plan as~~
22 ~~appropriate for increased Development of Regional Impact~~
23 ~~thresholds~~
24 ~~(5) Central Business Districts identified in a local~~
25 ~~government's Future Land Use Element~~
26 ~~(6) Compacts areas served or proposed to be served by fixed rail~~
27 ~~or light rail facilities~~

28 An area wide level of service standard may be established for
29 specific facilities in common corridors within a Transportation
30 Concurrency Management Area (TCMA). The area wide level of
31 service standard must be maintained, as a basis for the issuance
32 of development orders and permits within the TCMA. The area wide
33 level of service standard may only be established for facilities
34 on common corridors with similar functions, serving common
35 origins and destinations.

36 (A) The designation of a Transportation Concurrency Management
37 Area and the establishment of an area wide level of service
38 standard must be supported by data and analysis which:

39 (1) Demonstrate that the TCMA is compatible with and furthers
40 the various portions and elements of the County Comprehensive
41 Plan. When in a municipality, the data and analysis shall also
42 demonstrate that the TCMA is compatible with and furthers the
43 various portions and elements of the local government's
44 Comprehensive Plan.

45 (2) Provide justification for the size and boundary of the TCMA
46 for consistency with the purpose of promoting the stated
47 purpose of a TCMA.

48 (3) Demonstrate that the TCMA contains an integrated and
49 connected network of roads and provides multiple, viable
50 alternative travel paths or modes for common trips.

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1 (4) Demonstrate the basis for establishing the area wide level
2 of service standard and determine the existing and projected
3 transportation facilities and services requirements that will
4 support the requested area wide level of service standards.

5 (5) Demonstrate that the area wide level of service standard
6 and other transportation services and programs will support
7 infill development and redevelopment.

8 (6) Demonstrate that the planned roadway improvements and other
9 transportation services and programs will accomplish mobility
10 within and through the TCMA. The programs may include, but not
11 be limited to Transportation System Management (TSM),
12 Transportation Demand Management (TDM), and incentives to
13 promote public transit such as parking policies and provisions
14 for intermodal transfer.

15 (7) Identify the impacts on other local governments, if any.

16 (B) The local government shall establish and maintain an
17 internally consistent transportation, land use, and capital
18 improvement planning program. These programs shall be sufficient
19 to meet and maintain the established area wide level of service
20 standard.

21 Subsection 3. ~~Designation of an Interim Transportation~~
22 ~~Concurrency Management Area within the Unincorporated Area.~~
23 ~~Procedure.~~

24 ~~(A) Authority. The Board of County Commissioners shall have the~~
25 ~~authority to designate an Interim Transportation Concurrency~~
26 ~~Management Area within the Unincorporated Area by an amendment to~~
27 ~~the Comprehensive Plan provided it is consistent with the~~
28 ~~Comprehensive Plan. An Interim Transportation Concurrency~~
29 ~~Management Area shall be effective for a maximum period not to~~
30 ~~exceed thirty six months. Reduced level of service standards~~
31 ~~shall be effective during this time period.~~

32 ~~(B) Duration. During the interim period, a Transportation~~
33 ~~Mobility Element shall be prepared. The Interim Transportation~~
34 ~~Concurrency Management Area shall become null and void and the~~
35 ~~level of service standard rescinded if a Transportation Mobility~~
36 ~~Element is not adopted within the thirty six month period.~~

37 ~~(C) Limits. The Board of County Commissioners shall have the~~
38 ~~authority to impose limits on the amount of development allowed~~
39 ~~within an Interim Transportation Concurrency Management Area and~~
40 ~~impose conditions. The conditions may include but not be limited~~
41 ~~to, status reports, roadway improvements, bikeway improvements,~~
42 ~~pathway improvements and amenities, parking requirements and~~
43 ~~access control.~~

44 (A) At least 30 days prior to a local government submitting a
45 Comprehensive Plan Amendment for a TCMA, a preapplication
46 conference shall be held. This preapplication meeting will be
47 coordinated with the Planning Director. It will include
48 representatives from the local government initiating the
49 Comprehensive Plan amendment, the County Traffic Division and
50 Planning Division, the Metropolitan Planning Organization, the

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1 Florida Department of Transportation, District IV, and the
2 Treasure Coast Regional Planning Council.

3 (B) Another conference shall be held with the representatives
4 identified above within 30 days of receipt by the initiating
5 local government of the state planning agency's Objection,
6 Recommendation and Comments Report.

7 (C) The TCMA shall not become effective until the following
8 actions are taken:

9 (1) The Board of County Commissioners finds the designation of
10 the TCMA to be consistent with the Palm Beach County
11 Comprehensive Plan.

12 (2) The Board of County Commissioners finds the area wide level
13 of service standard to be appropriate, and can be maintained.

14 (3) The Board of County Commissioners adopts an amendment to
15 the Palm Beach County Comprehensive Plan establishing the TCMA.

16 (4) A final order is issued by the Department of Community
17 Affairs finding the amendment or amendments in compliance.

18 ~~Subsection 4. Designation of an Interim Transportation~~
19 ~~Concurrency Management Area within Municipalities.~~

20 ~~(A) Criteria. At least 90 days prior to the time a municipal~~
21 ~~governing body transmits a comprehensive plan amendment for an~~
22 ~~Interim Transportation Concurrency Management Area, the municipal~~
23 ~~governing body shall petition the Board of County Commissioners~~
24 ~~to establish interim level of service standards for roads which~~
25 ~~are not the responsibility of the municipality. The Board of~~
26 ~~County Commissioners shall have the authority to set, set with~~
27 ~~conditions or refuse to set interim level of service standards~~
28 ~~for all effected roadways and shall transmit the interim level of~~
29 ~~service standards to the municipal governing body at least 30 days~~
30 ~~prior to the transmittal public hearing. The interim level of~~
31 ~~service standards shall not become effective until the Florida~~
32 ~~Department of Community Affairs issues a notice of intent to find~~
33 ~~the municipal governments comprehensive plan amendment in~~
34 ~~compliance.~~

35 ~~(B) Petition. The petition to the Board of County Commissioners~~
36 ~~shall include sufficient data and analysis to enable the~~
37 ~~establishment of interim level of service standards. The data and~~
38 ~~analysis shall include but not be limited to:~~

39 ~~(1) The boundaries of the proposed Interim Transportation~~
40 ~~Concurrency Management Area.~~
41 ~~(2) The existing and projected average annual daily traffic and~~
42 ~~peak hour traffic on effected roadways.~~
43 ~~(3) Specific limits on development within the Interim~~
44 ~~Transportation Concurrency Management Area.~~
45 ~~(4) The projected trips generation and trip distribution.~~
46 ~~(5) The requested interim level of service standards.~~
47 ~~(6) How the Interim Transportation Concurrency Management Area~~
48 ~~is consistent with the County's Comprehensive Plan.~~

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1 ~~(C) Determination. In determining whether to set an interim level~~
2 ~~of service standard, the Board of County Commissioners shall base~~
3 ~~its determination on the following criteria:~~

4 ~~(1) Whether the Interim Transportation Concurrency Management~~
5 ~~Area is consistent with the County's Comprehensive plan.~~
6 ~~(2) whether the data and analysis supports any requested interim~~
7 ~~level of service standards.~~
8 ~~(3) Whether the requested level of service standard would unduly~~
9 ~~negatively impact the roadway network of any other~~
10 ~~jurisdictions.~~
11 ~~(4) Whether the Interim Transportation Concurrency management~~
12 ~~Area has been coordinated with affected jurisdictions.~~

13 ~~(D) Compliance. Upon receipt of proof that the municipal plan~~
14 ~~amendment designating an Interim Transportation Concurrency~~
15 ~~Management Area is in compliance, the Board of County~~
16 ~~commissioners shall amend the County's Comprehensive Plan at the~~
17 ~~next available comprehensive plan amendment round. The amendment~~
18 ~~will reflect the municipal Interim Transportation Concurrency~~
19 ~~management Area, the interim level of service standards and any~~
20 ~~conditions imposed by the Board of County Commissioners.~~

21 ~~(E) Duration. The Interim Transportation Concurrency Management~~
22 ~~Area shall be effective for a maximum period not to exceed thirty~~
23 ~~six months. Reduced level of service standards shall be effective~~
24 ~~during this time period.~~

25 ~~(F) Conditions. Interim level of service standards shall be~~
26 ~~adopted by a resolution of the Board of County Commissioners. The~~
27 ~~Board of County Commissioners shall have the authority to impose~~
28 ~~conditions upon the approval of any interim level of service~~
29 ~~standard, including but not limited to, monitoring and status~~
30 ~~reports, phasing requirements, roadway improvements, bikeway~~
31 ~~improvements, pedestrian and pathway amenities and improvements,~~
32 ~~parking requirements and improvements and access controls. The~~
33 ~~Board of County Commissioners, by a majority vote, shall also~~
34 ~~have the authority to rescind any interim level of service~~
35 ~~standard for failure to comply with any conditions imposed.~~

36 **Subpart** Section 15(II)D - Traffic Performance Standards,
37 Modification of Five-Year Road Program, Subsection 2,
38 Findings Required Prior to Deletion in the Adopted Five-
39 Year Road Program is amended to add language as follows:

40 Prior to approving the deletion of any construction project from
41 the County's Five-Year Road Program, the County Commission must
42 find: 1) that the deletion of the construction project will not
43 result in any link or intersection on the road network operating
44 at greater than the Adopted Level of Service as defined in this
45 Ordinance if such link would not have operated at greater than
46 the Adopted Level of Service as defined in this Ordinance had the
47 project been constructed as originally programmed in the adopted
48 Five-Year Road Program; and 2) that no project which was approved
49 and phased based upon such ASSURED CONSTRUCTION would be denied
50 BUILDING PERMITS because of the deletion of the construction. If
51 both findings can be made, then the construction project can be
52 eliminated by a majority vote except, if the project is in the
53 current fiscal year, in which case a majority plus one vote is

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1 required. If only the second (2nd) finding can be made, then a
2 project not in the current fiscal year could be deleted by a
3 majority plus one vote. However, in no case may a project be
4 deleted when the second (2nd) finding cannot be made.

5 Notwithstanding the above, a project may be deleted if an
6 equivalent substitute project replaces the original project, in
7 the same fiscal year. An equivalent substitute project is a
8 roadway project in the same area that will serve substantially
9 the same trips as the original project. This substitution may be
10 made by a majority plus one vote.

11 **Subpart** Section 15(I)N - Traffic Performance Standards,
12 Transportation Concurrency Exception Areas (TCEA) is
13 amended to create language as follows:

14 **Subsection 1. Intent.**

15 The purpose and intent of this flexible transportation
16 concurrency option approach is to reduce the adverse impact
17 transportation concurrency may have on urban infill development
18 and redevelopment and the achievement of other goals and policies
19 of the state comprehensive plan, such as promoting the
20 development of public transportation. Under limited
21 circumstances, it allows exceptions to the standards of this
22 Section 15 in defined urban areas. The exceptions provide
23 flexibility for concurrency management in order to encourage the
24 application of a wide range of planning strategies that
25 correspond with the local circumstances of a specific geographic
26 area. The exceptions apply to all land uses and development and
27 types of facilities within the expressly excepted area.

28 **Subsection 2. Area types.**

29 A local government must designate a Transportation Concurrency
30 Exception Area (TCEA) in its comprehensive plan. A TCEA will be
31 allowed only in one of the following areas:

32 (A) A specific geographic area delineated in the local government
33 comprehensive plan for urban infill development. Such an area
34 shall meet the following requirements:

35 (1) The area shall contain no more than 10 percent developable
36 vacant land. Developable vacant land shall not include water
37 bodies and land designated for conservation use, natural
38 reservations, public road right-of-way, public recreation
39 sites, or other areas or uses designated in the local
40 government's comprehensive plan as unavailable for development.

41 (2) For areas where residential uses are the dominant types of
42 uses, comprising greater than 60 percent of the developed land,
43 the average residential density shall be at least five (5)
44 dwelling units per gross residentially developed acre of land.

45 (3) For areas where nonresidential uses are the dominant types
46 of uses, comprising greater than 60 percent of the developed
47 land, the average nonresidential intensity shall be at least a
48 floor area ratio 1.0 per gross nonresidentially developed acre
49 of land.

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1 (4) If neither residential nor nonresidential uses comprise
2 more than 60 percent of the developed land, then both the
3 existing residential uses and nonresidential uses shall meet
4 the appropriate density and intensity criteria prescribed in
5 subsection (2) and (3) above. The term "gross developed acre"
6 shall include all uses associated with the predominant land use
7 including roads, parking, drainage, open space, landscaping,
8 and other support facilities.

9 (B) A specific geographic area delineated in the local government
10 comprehensive plan for urban redevelopment. The urban
11 redevelopment area must be within an urban infill area or within
12 an existing urban service area that does not contain more than 40
13 percent developable land.

14 (C) A specific geographic area delineated in the local government
15 comprehensive plan for downtown revitalization within the
16 designated central business district.

17 Subsection 3. Criteria.

18 (A) The designation of a Transportation Concurrency Exception
19 Area must be supported by data and analysis which:

20 (1) Demonstrate that the TCEA is compatible with and furthers
21 the various portions and elements of the County Comprehensive
22 Plan. When in a municipality, it shall also demonstrate that
23 the TCMA is compatible with and furthers the various portions
24 and elements of the local government's Comprehensive Plan.

25 (2) Provide justification for the size and boundary of the TCEA
26 for consistency with the purpose of promoting the stated
27 purpose of a TCEA.

28 (3) Identify the impacts on other local governments, if any.

29 (B) To implement the TCEA, the local government's comprehensive
30 plan must contain guidelines and policies which specify programs
31 to meet the transportation needs of the TCEA. The guidelines may
32 contain a wide range of strategies that include: timing and
33 staging plans, parking control and pricing policies,
34 Transportation System Management (TSM), Transportation Demand
35 Management (TDM), incentives to promote public transit, and the
36 utilization of creative financing tools for the provision of
37 transportation services and facilities.

38 (C) The guidelines and policies and programs to implement the
39 TCEA must demonstrate by supporting data and analysis, including
40 short and long range traffic analysis, that consideration has
41 been given to the impacts of the proposed development within the
42 TCEA on the Florida Intrastate Highway System.

43 Subsection 4. Procedure.

44 (A) At least 30 days prior to a local government submitting a
45 Comprehensive Plan Amendment for a TCEA, a preapplication
46 conference shall be held. This preapplication meeting will be
47 coordinated with the Planning Director. It will include
48 representatives from the local government initiating the

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1 Comprehensive Plan amendment, the County Traffic Division and
2 Planning Division, the Metropolitan Planning Organization, the
3 Florida Department of Transportation, District IV, and the
4 Treasure Coast Regional Planning Council.

5 (B) Another conference shall be held with the representatives
6 identified above within 30 days of receipt by the initiating
7 local government of the state planning agency's Objection,
8 Recommendation and Comments Report.

9 (C) The TCEA shall not become effective until the following
10 actions are taken:

11 (1) The Board of County Commissioners finds the designation of
12 the TCEA to be consistent with the Palm Beach County
13 Comprehensive Plan.

14 (2) The Board of County Commissioners adopts an amendment to
15 the Palm Beach County Comprehensive Plan establishing the TCEA.

16 (3) A final order is issued by the Department of Community
17 Affairs finding the amendment or amendments in compliance.

18 **Subpart** Section 16.1, On-Site Disposal Systems - (Environmental
19 Control Rule I) is deleted in its entirety and replaced
20 by the following:

21 This rule shall be designated as "Palm Beach County Environmental
22 Control Rule I - Onsite Sewage Treatment and Disposal Systems."

23 **SECTION 1. PURPOSE**
24 The provisions of this Rule prescribe the minimum standards for
25 onsite sewage treatment and disposal systems used for treatment
26 and disposal of domestic sewage flows of 5,000 gallons per day
27 and less.

28 **SECTION 2. DEFINITIONS**
29 Terms contained herein shall have the meaning prescribed by
30 Rule 10D-6, FAC as may be amended or shall have the following
31 meaning:

32 (1) "Aerobic Treatment Unit," means a treatment receptacle in
33 which air is introduced into the sewage so as to provide
34 Aerobic biochemical stabilization during a detention period.
35 (2) "Department," means the Palm Beach County Public Health
36 Unit.
37 (3) Commercial sewage waste - Non-toxic, non-hazardous
38 wastewater from commercial facilities. Examples of
39 establishments included in this definition are commercial
40 and institutional food operations, commercial laundry
41 facilities with no more than 4 machines and animal holding
42 facilities.
43 (4) "Domestic sewage waste" - human body waste and wastewater,
44 including bath and toilet waste, residential laundry waste,
45 residential kitchen waste and other similar wastes from
46 appurtenances at a residence or establishment. Domestic
47 sewage is further categorized as:
48 (a) Blackwater - waste from toilets, urinals and kitchen
49 drains.
50 (b) Graywater - that part of domestic sewage that is not
51 blackwater, including waste from the bath, lavatory,
52 laundry and sink, except kitchen sink waste.

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- 1 (c) Domestic sewage characteristics:
- 2 1. CBOD₅, maximum 300 mg/l
- 3 2. TSS, maximum 200 mg/l
- 4 3. pH, 6 - 8; or within 1 pH unit of the water supply pH
- 5 4. Nitrogen (TKN) maximum 100 mg/l
- 6 (5) "Drainfield" - a system of open-jointed or perforated
- 7 piping, approved alternative distribution units, or other
- 8 treatment facilities designed to distribute effluent for
- 9 filtration, oxidation and absorption by the soil within the
- 10 zone of aeration.
- 11 (6) "Drainfield Invert," means the inside bottom of the
- 12 distribution pipe at the lowest point in a drainfield.
- 13 (7) "Environmental Appeal Board," is the 5 member Board
- 14 appointed by the Environmental Control Board to hear appeals
- 15 under this Rule.
- 16 (8) "Environmental Control Board," is the Board consisting of
- 17 the 7 members of the Board of County Commissioners, which
- 18 adopts, reviews and amends ordinances and rules under
- 19 Chapter 77-616, Special Acts, Laws of Florida, as amended.
- 20 (9) "Environmental Control Hearing Board," is the 5 member Board
- 21 appointed by the Environmental Control Board, pursuant to
- 22 Chapter 77-616, Special Acts, Laws of Florida, as amended,
- 23 to conduct hearings on alleged violations of this Rule.
- 24 (10) "Environmental Control Officer," is the person appointed by
- 25 the Environmental Control Board under Chapter 77-616,
- 26 Special Acts, Laws of Florida, as amended.
- 27 (11) "Establishment," means a single structure or a group of
- 28 structures other than a single family residence on one or
- 29 more parcels of land with common access, parking, drainage
- 30 facilities and/or water supply.
- 31 (12) "Flooding," means a covering of soil surface or pavement by
- 32 water from any source, such as streams overflowing their
- 33 banks, runoff from adjacent or surrounding slopes, elevation
- 34 of the ground water table exceeding that of the soil
- 35 surface, inflow from high tides, or a combination of these.
- 36 Terms also associated with flooding and used elsewhere in
- 37 this Rule are:
- 38 (a) "Frequent," which means flooding which occurs more than
- 39 once every 2 years on the average;
- 40 (b) "10 year flood elevation," which means that flood
- 41 elevation which has a 10 in 100 probability of being
- 42 equaled or exceeded in any calendar year.
- 43 (13) "Grease Trap," means a watertight receptacle or reservoir
- 44 receiving wastewater—from a kitchen or other source
- 45 containing grease.
- 46 (14) Industrial, hazardous or toxic waste - wastewater not
- 47 otherwise defined as domestic sewage waste or commercial
- 48 sewage waste. Wastewater from floor drains, utility sinks
- 49 and equipment drains located in buildings in industrial or
- 50 manufacturing areas, wastewater from commercial laundry
- 51 facilities with more than 4 self-service machines and
- 52 wastewater from car and truck washes are included in this
- 53 definition.
- 54 (15) "Lot," means the area included within lot lines and intended
- 55 for lease, transfer of ownership, use or improvements or a
- 56 combination thereof. The term "lot" includes the term "plot,"
- 57 "parcel" or "tract."
- 58 (16) "Net Usable Land," means the total area of a parcel less all
- 59 street, wet areas, canals, right-of-ways, drainage easements
- 60 and other impairments to the owner's unrestricted use
- 61 thereof as a building site.
- 62 (17) "Non-Potable Well," means a well intended exclusively for
- 63 irrigation purposes, or for supplying water to a heat pump
- 64 system or a well for receiving discharge water from a heat

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- 1 pump system.
- 2 (18) "Onsite Sewage Treatment and Disposal System," means a
- 3 system of piping, tanks, or treatment devices and a
- 4 drainfield for treatment and disposal of domestic sewage.
- 5 (19) Potable water well - a source of water used for drinking,
- 6 culinary or domestic purposes. The following classifications
- 7 of potable wells are used in this Rule. A single rental
- 8 residence is included in this category so that a maximum of
- 9 three non-rental residences and one rental residence can be
- 10 supplied by a single private potable well.
- 11 (a) Private potable well - a well used only by four or fewer
- 12 non-rental residences.
- 13 (b) Public drinking water well - a well serving any drinking
- 14 water system other than private water system. Public
- 15 systems are classified in the following manner.
- 16 1. Community public water system - as defined in subsection
- 17 403.852(3), F.S. such water system serves a year-round
- 18 residential population of at least 25 people per day or has
- 19 a minimum of 15 year-round residential service connections.
- 20 2. Non-community public water system - as defined in subsection
- 21 403.852(4), F.S. such water system serves a transient
- 22 population of at least 25 people per day at least 60 days
- 23 per year or has a minimum of 15 non-residential service
- 24 connections.
- 25 3. Non-transient non-community public water system - as defined
- 26 in subsection 403.852(17), F.S., such water system is not a
- 27 community water system, but is a system that regularly
- 28 serves at least 25 of the same people for over 6 months of
- 29 the year.
- 30 4. Limited Use public water system - a public water system not
- 31 regulated by the Florida Safe Drinking Water Act or Rule 62-
- 32 550, 62-555, or 62-560 of the Florida Administrative Code
- 33 and further specified as limited use commercial public water
- 34 system which provides piped potable water to one or more
- 35 non-residential establishments and limited use community
- 36 public water system which provides piped potable water to
- 37 five or more private residences or two or more rental
- 38 residences.
- 39 (20) "Repair," means modification or addition to a failing onsite
- 40 sewage treatment and disposal system which is necessary to
- 41 allow the system to function or which is necessary to
- 42 eliminate a public health or pollution hazard. Pumping of
- 43 septage from a system and making minor structural
- 44 corrections to a tank or building sewer do not constitute
- 45 repair.
- 46 (21) "Septage," means a mixture of sludge, fatty material and
- 47 wastewater removed during the pumping of onsite sewage
- 48 treatment and disposal system, grease traps, laundry
- 49 interceptors and portable toilets.
- 50 (22) "Septic tank," means a watertight receptacle constructed to
- 51 promote separation of solid and liquid components of sewage,
- 52 to provide limited digestion of organic matter, to store
- 53 solids and to allow clarified liquid to discharge for
- 54 further treatment and disposal in a drainfield.
- 55 (23) "Septic Tank System," means septic tank, distribution box
- 56 and drainfield. When pump equipment is utilized, it is also
- 57 considered part of the septic tank system.
- 58 (24) "Service Truck," means a vehicle used to pump out the
- 59 contents of onsite sewage treatment and disposal systems,
- 60 grease traps, laundry interceptors and/or portable toilets.
- 61 (25) "Soil Classification," means the soil mantle as classified
- 62 in accordance with the U. S. Department of Agriculture Soil
- 63 Classification Methodology.
- 64 (26) "Soil Limitation Ratings," includes the three rating

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- categories, which are:
- (a) "Slightly Limited," means soils with favorable properties for the use of drainfield systems.
 - (b) "Moderately Limited," means soils that have properties moderately favorable for use of a drainfield system. Limitations in this category may be overcome by site alteration involving removal of impervious or too rapidly percolating soil layers, addition of fill, or lowering of high water table through approved drainage methods, or any combination of the above.
 - (c) "Severely Limited," means soils which have one or more properties unsuitable for the use of a drainfield system.
 - (27) "Subdivision," means any tract of land divided into three or more lots or parcels, regardless of the method by which the lots or parcels are described.
 - (28) Surface water - a recognizable body of water, including swamp or marsh areas, bayheads, cypress ponds, sloughs and natural or constructed ponds contained within a recognizable boundary. This does not include storm water retention or detention areas designed to contain standing or flowing water for less than 72 hours after a rainfall.
 - (29) "Temporary," means a single period or an accumulation of periods not exceeding 120 total days in any 365 day period.
 - (30) "Unobstructed Land" means that area on a lot or property which does not contain structures or other hindrances which would affect the installation, operation and/or maintenance of an onsite sewage treatment and disposal system. This includes, but is not limited to, pools, playgrounds, concrete slabs, trees, building, driveways, parking areas and tennis courts.
 - (31) "Water Table Elevation," means the upper surface of the groundwater or that level below which the soil or underlying rock material is saturated with water. Water table elevation is measured from the soil surface down or up to the free water level.
 - (32) "Wettest Season" means that period of time each year in which the groundwater table elevation can normally be expected to be at its highest elevation.
 - (33) "Wellfield" means an area of land which contains more than one potable well that is designed for a pumping rate of at least 100,000 gallons per day.

SECTION 3. GENERAL PROVISIONS FOR CONSTRUCTION, USE AND ABANDONMENT OF ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS

- (1) No onsite sewage treatment and disposal system shall be installed, modified, abandoned or repaired without first obtaining a permit, or used without obtaining approval from the Department.
- (2) No municipality or political subdivision of the State, including Palm Beach County, shall issue a building or plumbing permit for any building requiring the use of an onsite sewage treatment and disposal system unless the owner or builder has received a permit for such system from the Department. No municipality or political subdivision of the state should issue an occupational license to an owner or tenant of a building or otherwise allow an individual or business to relocate into or within an area zoned or used for industrial or manufacturing purposes or its equivalent until the owner or tenant has received written approval from the department. Approval shall state that the onsite sewage treatment and disposal system serving the business has been evaluated, is not expected to receive toxic or hazardous waste and is adequately designed to meet the sewage

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- 1 treatment and disposal needs of the business.
- 2 (3) Buildings used or intended for human occupancy, employment
- 3 or service to the public and locations where persons
- 4 congregate shall provide toilets connected to an approved
- 5 sewage waste disposal system. Also, property or location
- 6 where persons congregate and are employed, or where property
- 7 is used by the public for temporary and short periods of
- 8 duration, such as construction sites, fairs, carnivals,
- 9 revivals, field locations of agricultural workers,
- 10 encampments or other use, shall be provided with portable
- 11 toilets or other approved toilet facilities. The number of
- 12 toilet facilities to be provided shall be in accordance with
- 13 the local plumbing code, other applicable local regulations
- 14 and the Florida Administrative Codes. Establishments with
- 15 permanent structures shall not rely upon systems designed
- 16 for temporary use as the primary means of wastewater
- 17 treatment and disposal.
- 18 (4) Sewage wastes and effluents from an onsite sewage treatment
- 19 and disposal system shall not be allowed to surface onto the
- 20 ground and shall not be discharged into or permitted to
- 21 enter streams, surface waters, underground aquifers, ditches
- 22 or drainage structures.
- 23 (5) No building or premises shall be occupied, sub-let or leased
- 24 unless provided with an approved sewage disposal system.
- 25 (6) Total waste flow from any one establishment, whether a
- 26 single structure or group of structures, shall be centrally
- 27 collected for treatment and disposal.
- 28 (7) Wastewater generated by industrial or commercial
- 29 establishments shall not be discharged into an onsite sewage
- 30 treatment and disposal system if the characteristics of the
- 31 waste are such that it would cause malfunctioning of the
- 32 onsite sewage treatment and disposal system and/or
- 33 contamination of the ground water. Wastewater from such
- 34 establishments shall be treated and disposed of in
- 35 accordance with the State of Florida Department of
- 36 Environmental Protection requirements.
- 37 (8) Treatment and disposal of the wastewater from a building or
- 38 establishment shall be in compliance with Florida Department
- 39 of Environmental Protection standards and rules when any one
- 40 of the following conditions exist:
- 41 (a) Sewage or wastewater contains industrial, toxic or
- 42 hazardous waste.
- 43 (b) An area is zoned for industrial or manufacturing use, or
- 44 its equivalent, where there is a likelihood the system
- 45 may be used for disposing of wastes which are not
- 46 domestic wastes.
- 47 (9) Any existing and previously approved system which remains in
- 48 satisfactory operating condition shall remain valid for use
- 49 under the terms of the rule and permit under which it was
- 50 approved. If the use of a building is changed or if
- 51 additions or alterations to a building are made which will
- 52 increase sewage flow or change sewage characteristic, any
- 53 onsite sewage treatment and disposal system serving such
- 54 building shall be upgraded to comply with the provisions and
- 55 requirements of Rule 10D-6, F.A.C.
- 56 (10) Any onsite sewage treatment and disposal system used for
- 57 disposal of domestic sewage, which is designed, constructed,
- 58 installed, or modified after the effective date of this Rule
- 59 shall conform to the minimum requirements and provisions of
- 60 this Rule. Should an emergency or epidemic occur, the
- 61 Department may approve temporary systems for waste disposal
- 62 which may differ from standards set forth in this Rule, as
- 63 long as the Department supervises the operation of the
- 64 temporary system.

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- 1 (11) Any existing onsite sewage treatment and disposal system
2 installed under previous rules and regulations which becomes
3 non-conforming with this Rule for conditions or purpose as
4 approved and which has not been placed in use for a period
5 of one year or more, shall be deemed unapproved and its use
6 for such purpose prohibited.
7 (12) Whenever an approved sanitary sewer is made available under
8 the conditions set forth in Section 8 (1) of this Rule, any
9 onsite sewage treatment and disposal system shall be
10 abandoned and the sewage wastes from the residences or
11 building discharged to the sanitary sewer within 90 days
12 thereafter.
13 (13) When the use of an onsite sewage treatment and disposal
14 system is discontinued, it shall be abandoned and its
15 further use for any purpose prohibited. An abandoned septic
16 tank shall be (a) pumped out, (b), the bottom suitably
17 opened or ruptured so as to prevent the tank from retaining
18 water, and (c) filled with clean sand or other suitable
19 material, the actions being taken in the order listed.
20 (14) It shall be the duty of the Department to conduct such
21 technical inspections as are reasonable and necessary to
22 determine compliance with the provisions of this Rule.

23 SECTION 4. PERMIT, PERMIT CONDITIONS AND APPROVALS

- 24 (1) An onsite sewage treatment and disposal system shall not be
25 installed, modified, abandoned or repaired until a valid
26 permit has been obtained from the Department. Permits issued
27 for new construction shall expire after eighteen months from
28 the date of issuance if the system has not been installed.
29 However, if building construction has commenced, the system
30 construction permit shall be extended 90 days beyond the
31 eighteen month date. Permits for system repairs shall be
32 issued in accordance with Rule 10D-6, F.A.C.
33 (2) If the Department determines that the disposal of certain
34 wastes into the onsite sewage treatment and disposal system
35 may interfere with the proper functioning of the system, the
36 Department may specify on the permit those conditions that
37 are appropriate for the proper functioning of the system.
38 Upon request of the Department, the permit and conditions
39 shall be recorded in the public records of Palm Beach County
40 at the permittee's expense.
41 (3) The onsite sewage treatment and disposal system shall not be
42 used or covered with earth before it has passed an
43 inspection by the Department and a notice of approval has
44 been issued. Should the installer or general contractor fail
45 to notify the Department prior to covering the system, the
46 Department shall require that the system be uncovered for
47 inspection. If the system is approved, the Department shall
48 issue a notice of approval to the owner and, when
49 appropriate, to the Building Department. A building or
50 structure shall not be occupied until a notice of approval
51 has been issued by the Department. System inspection
52 requirements as specified in Rule 10D-6, F.A.C. shall be
53 adhered to.

54 SECTION 5. METHOD OF APPLICATION AND DATA REQUIRED ON APPLICATION
55 FOR AN ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM FOR A SINGLE
56 LOT OR PARCEL.

- 57 (1) The application and supporting data required for approval of
58 an onsite sewage treatment and disposal system for a single
59 lot or parcel of property shall be submitted to the
60 Department by the owner or his authorized representative, or

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- 1 a contractor licensed under Chapter 489., Florida Statutes.
2 The completed application form shall be submitted together
3 with the following:
4 (a) A site plan of the property drawn to scale, showing the
5 following:
6 1. Property boundaries with dimensions.
7 2. Easements.
8 3. Location of all existing and proposed buildings.
9 4. Location of all wells.
10 5. Location and layout of treatment receptacle and
11 drainfield.
12 6. Unobstructed area available for the installation of the
13 onsite sewage treatment and disposal system.
14 7. Potable and non-potable water lines.
15 8. Driveways.
16 9. Parking areas.
17 10. Walkways.
18 11. Swimming pools.
19 12. Storm water drainage system.
20 13. Surface water such as ponds, (existing or proposed),
21 lakes, streams, ditches, canals or wet areas.
22 14. Location and elevation of soil profiles.
23 15. Benchmark on or adjacent to the property.
24 16. Location of wells, onsite sewage treatment and disposal
25 facilities or other pertinent features on adjacent
26 properties if the features are within 200 feet of the
27 proposed onsite sewage treatment system or well.
28 17. The site plan shall also indicate the presence of any
29 marsh area, mangroves, cypress and wetland vegetation on
30 the property or on adjacent properties.
31 (b) For residences, a floor plan showing the number of
32 bedrooms and the building area of each dwelling unit.
33 (c) In cases where there is a drastic variation in the
34 elevation of the lot, a topographical map of the property
35 must be submitted.
36 (d) At least two soil profiles delineating the textural
37 classification and Munsell color of the native soil at
38 the beginning and end of the soil absorption area to a
39 minimum depth of 6 feet or refusal in accordance with
40 USDA Soil Classification Methodology.
41 (e) The existing water table elevation and the estimated
42 wettest season water table elevation.
43 (2) The owner shall be held responsible for all information
44 supplied to the Department. The application and supporting
45 data serve as the basis for the issuance of a construction
46 permit. In the event of a change in any material fact given
47 in the application which served as a basis for issuing a
48 construction permit, the owner shall immediately file an
49 amended application detailing such changed conditions. If
50 the new conditions are in compliance with the standards in
51 this Rule, the construction permit shall be amended. If the
52 new conditions are not in compliance with the standards of
53 this Rule, the permit shall be revoked.
54 (3) The supporting data must be prepared by an engineer and land
55 surveyor registered in the State of Florida, as specified in
56 Rule 10D-6, F.A.C. The site plan must be prepared by a
57 professional land surveyor registered in the state of
58 Florida. The soil classification and system design shall be
59 performed by a professional engineer registered in the state
60 of Florida with training in soils. When fill soils are used,
61 the Department may require that soils be classified by a
62 certified soils engineering testing laboratory registered in
63 the State of Florida.
64 (4) If the application is for a lot that is exempt under Section

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- 1 7(5) documentation shall be submitted to substantiate the
2 existence of the lot prior to January 1, 1972. Documentation
3 shall be:
4 (a) A survey, map, plat or drawing prepared by a professional
5 land surveyor licensed in the State of Florida, or
6 (b) A survey, map, plat or drawing registered with the
7 Department of Business and Professional Regulation,
8 Division of Land Sales, or
9 (c) A property tax receipt, or
10 (d) A deed, or
11 (e) An agreement for deed.

12 **SECTION 6. METHOD OF APPLICATION AND DATA REQUIRED ON APPLICATION**
13 **FOR ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS FOR A**
14 **SUBDIVISION.**

- 15 (1) The application and supporting data required for approval of
16 the use of onsite sewage treatment and disposal systems for
17 a subdivision shall be submitted to the Department by the
18 owner or his authorized representative. The supporting data
19 must be prepared by a licensed surveyor or engineer, as
20 appropriate, and shall include:
21 (a) A plan of the subdivision clearly drawn to scale, showing
22 lot and block arrangements, lot dimensions with all lots
23 numbered and net area of each lot.
24 (b) A topographical map with contour interval to indicate
25 surface configurations, including slopes, streams, or
26 water courses, bodies of water, low, wet, or marshy land
27 and lots on which any fill is to be made.
28 (c) A general site location map for reference identification
29 of the area.
30 (d) The proposed drainage plans certified by the preparer as
31 being in compliance with existing district drainage plans
32 as approved by the local drainage authority, Palm Beach
33 County Engineering Department and the South Florida Water
34 Management District, as applicable.
35 (e) South Florida Water Management District staff report and
36 permit for the proposed drainage system, if applicable.
37 (f) The natural soil profile delineating soil classification
38 to a depth of 6 feet or refusal for a representative
39 number of test sites for at least 10% of the number of
40 lots, for which the minimum information provided is the
41 upper and lower horizon boundaries. Munsell color of the
42 horizon and its components and USDS soil texture; using
43 USDA Soil Classification methodology as described in
44 chapter 3 of the Soil Survey Manual, United States
45 Department of Agriculture, Handbook No. 18, October 1993,
46 herein incorporated by reference. Where the replacement
47 of severely limited soil is proposed, soil profiles shall
48 be performed to a minimum depth of 6 feet or to the depth
49 of the slightly or moderately limited soil layer lying
50 below the replaced layer, whichever is greater.
51 (g) Water table elevations as existing and for the wettest
52 season, based on M.S.L. datum.
53 (h) All dedicated right-of-way or recorded easements proposed
54 for use in the installation of onsite sewage treatment
55 and disposal or water system.
56 (i) Proposed sewer utility easements and rights-of-way shall
57 be included on the subdivision.
58 (j) If private wells are to be used, submit evidence to the
59 Department that the groundwater is of satisfactory
60 quality and is not threatened by a source of
61 contamination.

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1 SECTION 7. STANDARDS FOR APPROVAL OF AN ONSITE SEWAGE TREATMENT
2 AND DISPOSAL SYSTEM.

3 In considering applications for permitting construction of an
4 onsite sewage treatment and disposal system, the Department shall
5 be governed by the following standards except for special
6 provisions set forth in Sections 7(5), and 7(7):

- 7 (1) The lot, unless exempt under Section 7(5) shall have a
8 minimum net usable land area of:
9 (a) ½ acre if the water supply is by means of a community
10 well.
11 (b) 1 acre if the water supply is by means of an onsite
12 well.
13 (2) The drainfield invert shall be a minimum of 30 inches
14 above the wettest season water table elevation.
15 (3) Systems shall be placed no closer than the minimum
16 distances required under Rule 10D-6, F.A.C. except for
17 lots addressed under Section 7(7):
18 (4) Suitable, unobstructed land shall be available for the
19 installation and proper functioning of drainfields as
20 required under Rule 10D-6, F.A.C.
21 (5) Parcels or tracts of land for which documentation has
22 been submitted in accordance with Section 5(4) to
23 substantiate existence prior to January 1, 1972 shall be
24 exempt from the lot size requirements of Section (1) as
25 long as a zoning special exception has not been granted
26 or a change in zoning has not been made; provided,
27 however, that neither a zoning change which does not
28 increase the permitted residential density of units on
29 the parcels or tracts nor a zoning change initiated by
30 action of Palm Beach County shall be deemed to divest the
31 parcels or tracts of the exemption provided hereby.
32 (6) The following additional restrictions apply to onsite
33 sewage treatment and disposal systems that are proposed
34 within the 210 day travel time contour of an existing or
35 proposed wellfield. These restrictions apply to requests
36 for permits on individual lots, existing subdivisions and
37 new subdivisions. (The zones of influence are indicated
38 on the Palm Beach County Wellfield protection maps).

39

<u>TRAVEL TIME (Days)</u>	<u>MAXIMUM SEWAGE LOADING</u>
	<u>(Gallons/acre/day)</u>
<u>Less than or equal to 30. (Zone one)</u>	<u>350</u>
<u>Greater than 30, but less than</u>	
<u>or equal to 210. (Zone two)</u>	<u>600</u>

- 44 (7) The following standards shall apply when the soil
45 profile, as required under Section 5 (1) (d) of this
46 Rule, shows the presence of hardpan or bedrock or of
47 soils classified as sandy clay loam, clay loam, silty
48 clay loam, sandy clay, silty clay, clay and organic
49 soils. The Palm Beach County Soil Survey prepared by the
50 United States Department of Agriculture Soil Conservation
51 Service or other available data may be used by the
52 Department to determine the presence of the above noted
53 soils.
54 (a) The maximum sewage loading shall not exceed 450 gallons
55 per acre per day.
56 (b) The onsite sewage disposal system shall be placed no
57 closer than the minimum distances indicated for the
58 following:
59 1. 100 feet from private and limited use wells.
60 2. 200 feet from a non-community well.
61 3. 500 feet from a community well.

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- 1 4. 75 feet from a non-potable water well.
2 5. 100 feet from the high water line of lakes, streams,
3 canals or other surface waters of overflow.
4 (8) When an automatic dosing system is required in accordance
5 with Rule 10D-6, F.A.C., two pumps shall be required for
6 commercial use when the estimated establishment sewage flow
7 exceeds 500 gallons per day and for multiple family
8 residential use where three or more units are proposed. A
9 placard on the dosing pump panel must be provided indicating
10 the following:
11 1. Name and phone number of person to contact in case of
12 emergency.
13 2. Name and phone number of septic tank company to call for
14 pumpout in case of overflow.

15 **SECTION 8. CONDITIONS UNDER WHICH ONSITE SEWAGE TREATMENT AND**
16 **DISPOSAL SYSTEMS SHALL NOT BE APPROVED.**

17 An onsite sewage treatment and disposal system shall not be
18 approved:

- 19 (1) Where an existing sanitary sewer is available. A
20 municipal or investor-owned sewerage system shall be
21 deemed available for connection if the following
22 conditions exist:
23 The system is not under a Department of Environmental
24 Protection moratorium, and the sewerage system has
25 adequate hydraulic capacity to accept the quantity of
26 sewage to be generated by the proposed establishment; and
27 the existing sewer line is within the following distance
28 from the property:
29 (a) For estimated sewage flows of 600 or fewer gallons per
30 day, if a sewer line exists in a public easement or
31 right-of-way which abuts the property or is within 100
32 feet of the property and if gravity flow can be
33 maintained from the building drain to the sewer line.
34 (b) For estimated sewage flows exceeding 600 gallons per day
35 to 1,200 gallons per day, if a sewer line, gravity or
36 force main exists in a public easement or right-of-way
37 which is within 100 feet of the property.
38 (c) For estimated sewage flows greater than 1,200 gallons
39 per day to 2,500 gallons per day, if a sewer line,
40 gravity or force main exists in a public easement or
41 right-of-way which is within 500 feet of the property.
42 (d) For estimated sewage flows greater than 2,500 gallons
43 per day to 5,000 gallons per day, if a sewer line(
44 gravity or force main) exists in a public easement or
45 right-of-way which is within 1,000 feet of the property.
46 (2) Where the property is located in an area that is subject
47 to frequent flooding.
48 (3) For lots in a subdivision where the approved drainage has
49 not been constructed in accordance with the requirements
50 of the South Florida Management District and/or the Palm
51 Beach County Engineering Department.
52 (4) For treatment and disposal of industrial hazardous or
53 toxic wastes.
54 (5) For commercial establishments where food is processed,
55 handled, prepared or served. This restriction does not
56 apply to retail or prepackaged food stores and to
57 convenience stores where food service is limited to
58 coffee, soft drinks and hot dogs.

59 **SECTION 9. HANDLING OF SEPTAGE**

60 Collection, treatment and disposal of septage shall be in

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1 accordance with Rule 10D-6, Florida Administrative Code. No
2 person(s) or corporation shall engage in the business of
3 servicing septic tanks, grease traps, portable toilets or other
4 treatment receptacles without first obtaining an annual license
5 from the Department. The issuance of the license would be based
6 upon compliance with the provisions of Rule 10D-6, Florida
7 Administrative Code.

8 **SECTION 10. PROHIBITIONS**

- 9 (1) It is prohibited for any person to construct, keep, use or
10 maintain a privy from which human waste is deposited on the
11 surface of the ground or over waters of the State.
12 (2) No person shall manufacture, sell or install an onsite
13 sewage treatment and disposal system unless in compliance
14 with the requirements of this Rule.
15 (3) It is prohibited to drain sewage wastes or septic tank
16 effluent into cesspools or drywells as means of disposal.
17 (4) Organic chemical solvents shall not be advertised, sold or
18 used in the county for the purpose of degreasing or
19 declogging onsite sewage disposal systems.

20 **SECTION 11. INCORPORATION BY REFERENCE OF RULE 10D-6, FLORIDA**
21 **ADMINISTRATIVE CODE**

22 Rule 10D-6, Florida Administrative Code as may be amended from
23 time to time and all amendments hereto, is hereby incorporated by
24 reference including, but not limited to, application and
25 permitting procedures, systems design and construction standards,
26 system sizing, system setback requirements, septage disposal,
27 system maintenance and fee schedule unless higher in county fee
28 ordinance. In the event of a conflict between the provision of
29 Rule 10D-6 and this Rule, the more restrictive provision shall
30 apply.

31 **SECTION 12. ENVIRONMENTAL APPEAL BOARD**

- 32 (1) The Environmental Appeal Board, which was established by the
33 Environmental Control Board on May 26, 1987, to hear appeals
34 from certain requirements, interpretations or determinations
35 of this Rule made by the Palm Beach County Health Department
36 or the Environmental Control Officer shall continue to hear
37 appeals. The members of the Environmental Appeal Board shall
38 have the following qualifications and terms of office:
39 (a) Members shall be residents of Palm Beach County and shall
40 serve three year terms. However, the first term of the
41 water resource professional and the drinking water
42 engineer shall be for two years, but said terms shall be
43 for three years thereafter.
44 (b) The membership shall be as follows:
45 i. A professional engineer, nominated by the American
46 Society of Civil Engineers, Palm Beach Branch.
47 ii. A water resource professional employed by the South
48 Florida Management District.
49 iii. A drinking water engineer employed by the Department of
50 Environmental Protection.
51 iv. A person nominated by the Home Builders and Contractors
52 Association.
53 v. A citizen not holding elective office. However, after
54 the citizen has served one term, the citizen shall be
55 replaced by an attorney nominated by the Palm Beach
56 County Bar Association.
57 (c) The members of the Environmental Appeal Board shall elect
58 a chairman. The presence of three or more members shall

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- 1 constitute a quorum of the Environmental Appeal Board. A
2 majority vote of the membership shall be necessary to
3 take any action. Members shall serve without
4 compensation.
5 (d) Conduct of hearing:
6 i. Hearings may be called by the chairman or by written
7 notice signed by at least three members of the
8 Environmental Appeal Board. At any hearing, the
9 Environmental Appeal Board may set a future hearing date.
10 ii. Minutes shall be kept of all hearings. The Environmental
11 Appeal Board shall keep accurate records of its public
12 hearings, which shall be filed, together with its
13 minutes, in the Environmental Control Office.
14 (e) The Environmental Control Board shall provide adequate
15 and competent clerical and administrative personnel as
16 may be required by the Environmental Appeal Board for the
17 proper performance of its duties.
- 18 **SECTION 13. APPEALS**
- 19 (1) Persons aggrieved by a requirement, interpretation or
20 determination of this Rule made by the Palm Beach County
21 Public Health Unit or the Environmental Control

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officer may appeal to the Environmental Appeal Board by filing a written notice of appeal, with the Environmental Control Officer within 30 days from the determination to be appealed. The notice shall be accompanied by a certified check or money order, made payable to the Palm Beach County Public Health Unit to defray the cost of processing and administering the appeal. The fee for filing the appeal shall be non-refundable and in the following amounts:

- (a) \$100.00 for a single family residence
 - (b) \$125.00 for all others, including, but not limited to, multiple family, commercial or subdivisions.
- However, no appeal shall be filed which requests relief from the construction standards required under Rule 10-D-6, F.A.C.
- (2) Each notice of appeal shall state the factual basis for the appeal and the relief requested. There shall be attached to each notice supportive materials and documents, including the information listed in Exhibits I or II, if applicable to the appeal. The Environmental Appeal Board may require such additional information as it deems necessary. A separate notice of appeal must be filed for each site or system considered for an appeal. Required supporting documentation for the appeal must be filed with the Department of Environmental Control Office with the notice of appeal. The burden of presenting supportive facts in the notice of appeal shall be the responsibility of the person filing the appeal. The person filing the appeal shall have the burden of proving that he/she is entitled to relief. The Department and/or the Environmental Control Officer shall defend all appeals before the Environmental Appeal Board.
 - (3) The person filing the appeal shall also submit to the Environmental Control Officer a list of the names and addresses of every property owner who may be affected by the granting of the appeal in the following cases:
 - (a) The proposed onsite sewage treatment and disposal system fails to meet the minimum distance required between the system and a well, as provided by this Rule; or
 - (b) The proposed onsite sewage treatment and disposal system is within 5 feet of a neighboring lot; or
 - (c) The proposed onsite sewage treatment and disposal system is within 50 feet of a water body on a neighboring lot.
 - (4) A hearing on the appeal shall be set within sixty (60) days of receipt of the notice of appeal by the Environmental Control Officer. This provision does not mean that the applicant is entitled to a hearing on the first available agenda following receipt of the notice of appeal.
 - (5) Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be under oath. Irrelevant, immaterial or unduly repetitious evidence shall be excluded; but all other evidence of a type commonly relied upon by reasonably prudent persons shall be admissible, whether or not such evidence would be admissible in the trial courts of Florida. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
 - (6) The parties shall have the following rights: to be represented by counsel; to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any relevant matter, even though the matter was not covered in direct examination; and to rebut evidence.
 - (7) The Environmental Appeal Board shall hear and consider all facts material to the appeal and shall issue findings of fact based upon the greater weight of the evidence and shall

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- 1 issue an order affording the proper relief consistent with
2 the powers granted herein. The findings and order shall be
3 by motion approved by a majority of those members present
4 and voting.
5 (8) In order to grant an appeal authorizing a sewage treatment
6 and disposal system on a single lot, the Environmental
7 Appeal Board must find that:
8 (a) because of special factors, which may include economic
9 factors, the applicant is unable to comply with this Rule
10 and
11 (b) the onsite sewage treatment and disposal system complies
12 with current construction standards; and
13 (c) The granting of the appeal is the minimum alternative
14 that will make possible the reasonable use of the land,
15 structure or building; and
16 (d) The granting of the appeal is consistent with the general
17 intent, purpose and requirements of Palm Beach County
18 laws and ordinances; and
19 (e) The grant of the appeal will not be injurious to the area
20 involved or to the public health and general welfare.
21 (9) In order to grant an appeal authorizing onsite sewage
22 treatment and disposal systems in subdivisions containing
23 lots smaller than those required under this Rule, the
24 Environmental Appeal Board must additionally find:
25 (a) That for a proposed subdivision to be served by
26 individual private wells, each lot has at least ¼ acre,
27 with a minimum dimension of 100 feet and that said
28 subdivision contains no more than 50 lots; or that for
29 the proposed subdivision to be served by a public water
30 system, each lot has at least 1/3 acre with a minimum
31 dimension of 75 feet and that said subdivision contains
32 no more than 100 lots; and
33 (b) That satisfactory ground water can be obtained if an
34 individual private well is to be used; and
35 (c) That all distance and setbacks, soil conditions, water
36 table elevations and other related requirements of this
37 Rule and Rule 10D-6, Florida Administrative Code, are
38 met; and
39 (d) That the proposed subdivision does not represent
40 sequential development of contiguous subdivisions, the
41 purpose of which is to avoid the requirements of Section
42 13 (9) (a) of this Rule; and
43 (e) That a municipal, county or investor-owned public
44 sewerage system is not available contiguous to the
45 proposed subdivision or within ¼ mile thereof with public
46 right-of-way accessibility; and
47 (f) That the proposed plat contains notification that the
48 lots must be connected to a municipal, county or
49 investor-owned water supply and/or sewerage system within
50 ninety (90) days from the date such system becomes
51 available; and
52 (g) That the proposed density of the subdivision is
53 consistent with the density recommended in the Land Use
54 Plan of Palm Beach County or in the Land Use Plan of the
55 appropriate municipality; and
56 (h) That the developer has made every reasonable effort to
57 obtain public water and sewer; and
58 (i) That dry water and/or sewer lines are to be installed by
59 the developer and that the developer will establish an
60 escrow account to pay for the cost of connection when
61 water and/or sewer becomes available, or that the
62 installation of the same is not feasible from a technical
63 or economic standpoint; and
64 (j) That onsite, water and/or sewage treatment facilities are

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- not feasible from a technical or economic standpoint; and
- (k) That the proposed development will consist of no more than one single family residence per lot; and
- (l) That land uses surrounding and adjacent to the proposed subdivision and soil qualities of the area do not indicate that the area's health is endangered by an inordinate proliferation of septic tanks.
- (10) Provided that the factual findings specified in subsection (8) or (9) are made, the Environmental Appeal Board may reverse, modify or affirm, wholly or partly, the requirement, interpretation or determination made by the Palm Beach County Public Health Unit or the Environmental Control Officer. In granting an appeal, the Environmental Appeal Board may prescribe appropriate conditions and safeguards consistent with this Rule. Violation of such conditions and safeguards, when made a part of the terms under which the appeal is granted, shall be deemed a violation of this Rule. The Environmental Appeal Board may also prescribe a reasonable time within which the action for which the appeal is granted shall be started or completed or both. Any decision of the Environmental Appeal Board shall be in the form of written order.
- (11) If there is a change in facts or circumstances supporting a request for relief after an order granting relief has been issued, then the applicant shall notify the Department. The Department may request the Environmental Appeal Board to revoke or amend the order.
- (12) Except where the relief granted is to exempt an applicant from the requirement to connect to a sanitary sewer under Section 8 (1), any relief granted shall automatically terminate upon the availability of sewer service to the lot or parcel. Unless otherwise provided in an order issued pursuant to Section 21 11 (10), relief granted under this Rule shall automatically lapse if action for which the appeal was granted has not been initiated within one (1) year from the date of granting such appeal by the Environmental Appeal Board or, if judicial proceedings to review the Environmental Appeal Board's decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals.
- (13) The decision of the Environmental Appeal Board shall be final administrative action. Any party or interested person may appeal a decision of the Environmental Appeal Board to the Circuit Court of Palm Beach County. Such appeal shall be filed within 30 days of the execution of the Environmental Appeal Board's order.

SECTION 14. VIOLATIONS, ENFORCEMENT PENALTIES, INSPECTIONS.

- (1) Violations, Enforcement and Penalties. It is unlawful for any person to violate any provisions of this Rule or any duly constituted order of the Palm Beach County Environmental Control Hearing Board enforcing this Rule. Such violations shall be punished according to the provisions of Chapter 77-616, Special acts, Laws of Florida, as amended from time to time.
- (2) Inspections. It shall be the duty of the County Health Director or his authorized representative to conduct such inspections as are reasonable and necessary to determine compliance with the provisions of this Rule.

SECTION 15. JUDICIAL REVIEW.

Any person aggrieved by an action or decision of the Palm Beach

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1 County Environmental Appeal Board may seek judicial review in the
2 Circuit Court for Palm Beach County.

3
4 SECTION 16. APPLICATION.

5 This Rule shall apply to all the incorporated and unincorporated
6 areas of Palm Beach County, Florida.

7 ECR I
8 Exhibit I
9 INFORMATION REQUIRED FOR AN APPEAL FOR AN INDIVIDUAL LOT

10 Eight copies of the following information prepared by an
11 engineer or land surveyor registered in the State of Florida must
12 be submitted with the notice of appeal:

13 I. Floor Plan

14 II. A site plan drawn to scale showing:

- 15 A) Boundaries with dimensions
16 B) Elevations or slope of land
17 C) Location of building(s)
18 D) Location and layout of septic tank
19 E) Location and layout of drainfield
20 F) Location of potable water supply lines
21 G) Location of well
22 H) Location of public sewers
23 I) Location and elevation of percolation test
24 J) Location of septic tank, drainfield and well on adjacent
25 properties (sides, front and rear)
26 K) Location of driveways, parking and walkways
27 L) Benchmark on or adjacent or property

28 III. The site plan must indicate the following (related to the
29 system):

- 30 A) Distance from private well
31 B) Distance from public well
32 C) Distance of septic tank and drainfield from building
33 D) Distance of septic tank and drainfield from property line
34 E) Distance from water supply lines
35 F) Distance to high water line of lakes, canals, streams, etc.

36 IV. Two soil profiles to six feet (in drainfield area)
37 indicating the soil classification and showing the existing
38 water table and the estimated wettest season water table.

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1 SECTION 2. PURPOSE

2 The provisions of this Rule prescribe the minimum standards for
3 the design, construction, installation and operation of all water
4 supply systems from which water is used for human consumption,
5 culinary, sanitary, domestic, or other purposes.

6 SECTION 3. DEFINITIONS

- 7 (1) "Adequate Protection by Treatment" means any one or any
8 combination of the controlled processes of coagulation,
9 sedimentation, absorption, filtration, or other processes
10 in addition to disinfection which produces water
11 consistently meeting the requirements of this Rule
12 including processes which are appropriate to the source
13 of supply.
- 14 (2) "Approved Source," when used in reference to bottled
15 water, means a source, whether it be from a spring,
16 artesian well, drilled well, municipal water supply or
17 any other source, that has been inspected and the water
18 sampled, analyzed, and found to be of a safe and sanitary
19 quality in accordance with provisions of the Rule.
- 20 (3) "Bottled Water" means water that is sealed in a container
21 or package and is offered for sale for human consumption
22 or other uses.
- 23 (4) "Bottled Water Plant" means any place or establishment in
24 which bottled water is prepared for sale.
- 25 (5) "Community Water System" means a water system which
26 serves at least 15 service connections used by year-round
27 residents or which serves at least 25 year round
28 residents.
- 29 (6) "Confluent Growth" means a continuous bacterial growth
30 covering the entire filtration area of a membrane filter
31 used for coliform detection, or a portion thereof, in
32 which bacterial colonies are not discrete.
- 33 (7) "Consecutive Water System" means a water supply system
34 which serves at least 15 service connections used by
35 year-round residents or which serves at least 25 year
36 round residents which receives its water from a community
37 water system.
- 38 (8) "Contaminant" means any physical, chemical biological or
39 radiological substance or matter in water.
- 40 (9) "Cross-Connection" means any physical arrangement whereby
41 any drinking water supply is connected, directly or
42 indirectly, with any other supply system, sewer, drain,
43 conduit, pool, storage reservoir, plumbing fixture, or
44 other device which contains or may contain contaminated
45 water, sewage or other waste or liquid of unknown or
46 unsafe quality which may be capable of imparting
47 contamination to the drinking water supply as the result
48 of backflow. Bypass arrangements, jumper connections,
49 removable sections, swivel or changeable devices and
50 other temporary or permanent devices through which or
51 because of which backflow could occur are considered to
52 be cross-connections.
- 53 (10) "Department" means the Palm Beach County Public Health
54 Unit.
- 55 (11) "Environmental Appeal Board" is the five (5) member Board
56 appointed by the Environmental Control Board to hear
57 appeals under this Rule.
- 58 (12) "Environmental Control Board" is the Board consisting of
59 the seven (7) members of the Board of County
60 Commissioners, which adopts, reviews and amends
61 ordinances and rules under Chapter 77-616, Special Acts,

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- 1 Laws of Florida, as amended.
2 (13) "Environmental Control Hearing Board" is the five (5)
3 member Board appointed by the Environmental Control
4 Board, pursuant to Chapter 77-616, Special Acts, Laws of
5 Florida, as amended, to conduct hearings on alleged
6 violations of this Rule.
7 (14) "Environmental Control Officer" is the attorney(s)
8 appointed by the Environmental Control Board under
9 Chapter 77-616, Special Acts, Laws of Florida, as
10 amended.
11 (15) "Ground Water" is a source of water existing below the
12 surface of the ground and not exposed to the atmosphere.
13 (16) "Health Threat" means any condition, device or practice
14 in a water supply system or its operation which creates
15 or may create an imminent or substantial danger to the
16 health and well-being of the water consumer.
17 (17) "Limited Use Public Water Systems" means a public water
18 supply system not covered or included in the Florida Safe
19 Drinking Water Act, which is further defined as either:
20 (a) "Limited Use Commercial Public Water Supply System"
21 serves one or more non-residential establishments and
22 provides piped potable water or,
23 (b) "Limited Use Community Public Water Supply System" serves
24 five or more private residents or two or more rental
25 residences and provides piped potable water.
26 (18) "Maximum Contaminant Level" means the maximum permissible
27 level of a contaminant in water which is delivered to any
28 user of a water supply system.
29 (19) "Maximum Day" means the highest day of water consumption
30 within any 24 hour period from midnight to midnight
31 excluding fire flow.
32 (20) "Non-Community Water System" means a water system for
33 provision of piped water under pressure for human
34 consumption, culinary, sanitary or domestic purposes that
35 serves at least 25 individuals daily at least 60 days out
36 of the year but is not a community water system.
37 (21) "Non-transient non-community water system" means a water
38 supply system for provision of piped water under pressure
39 for human consumption, culinary, sanitary or domestic
40 purposes that regularly serves at least 25 of the same
41 persons over six (6) months per year but is not a
42 community water system.
43 (22) "Onsite sewage treatment and disposal system" means a
44 septic tank system or other treatment system as defined
45 in Chapter 10D-6, F.A.C.
46 (23) "Person" means any individual, corporation, company,
47 association, partnership, state, subdivision of the
48 state, municipality or federal agency.
49 (24) "Private Water System" means a well, spring, cistern or
50 other similar source of water and appurtenances of piped
51 potable water for human consumption and other domestic
52 purposes serving four or fewer non-rental residences.
53 (25) "Sanitary Survey" means onsite review of the water
54 source, facilities, equipment, operation and maintenance
55 of a public water system to evaluate the adequacy of such
56 source, facilities, equipment, operation and maintenance
57 for producing and distributing safe drinking water.
58 (26) "Supplier of water" means any person who owns or operates
59 a water supply system.
60 (27) "Surface Water" means a source of water existing above
61 the surface of the ground and exposed to the atmosphere.
62 (28) "Too Numerous to Count (TNTC)" means equal to or greater
63 than 200 non-coliform bacteria per 100 ml of sample.
64 (29) "Water Supply System" or "Water Supply Facility" or

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1 "Water System" or "Water Facility," means any or all
2 works and auxiliaries for collection, treatment, storage
3 and distribution of water from the source or sources of
4 supply to the consumer or processing plants including
5 ice-making vending machines, water vending machines and
6 bottled water plants.
7 (30) "Water Well," means any excavation that is drilled,
8 cored, bored, washed, driven, dug, jetted or otherwise
9 constructed when the intended use of such excavation is
10 to conduct groundwater from a source bed to the surface
11 by pumping or natural flow.

12 **SECTION 4. GENERAL PROVISIONS**

13 (1) A single water supply system shall be constructed for any
14 new structure, lot or facility containing more than one building
15 with common access parking.
16 (2) All fees charged for the administration of this Rule shall
17 be in accordance with the fee schedule pursuant to Ordinance No.
18 92-23 and the amendments thereto.
19 (3) All buildings used or intended for human occupancy,
20 employment or service to the public shall be provided with piped
21 water under pressure from a water system which complies with the
22 provisions of this Rule. Bottled water shall not be considered an
23 acceptable substitute for such a water system.
24 (4) Request for Department approval on zoning, site plan and
25 subdivision matters for building permits shall be reviewed in
26 light of this Rule.
27 (5) This rule applies to both new and existing water systems
28 unless the section states otherwise.

29 **SECTION 5. WATER QUALITY REQUIREMENTS**

30 The ultimate concern of a public drinking water program is the
31 quality of piped water for human consumption when the water
32 reaches the consumers. The following rules establish the maximum
33 contaminant levels for the water within public water systems.
34 Public water systems shall not exceed the maximum contaminant
35 levels established.
36 (1) "Primary Drinking Water Standards Maximum Contaminant
37 Levels." These standards are as specified in Chapter 62-550
38 F.A.C. and 10D-4 F.A.C. as applicable.
39 (2) Maximum contaminant levels for secondary inorganic
40 contaminant. The maximum contaminant levels for secondary
41 inorganic contaminants are applicable to community water systems
42 only and are as specified in Chapter 62-550 F.A.C.

43 **SECTION 6. WATER MONITORING REQUIREMENTS**

44 (1) Microbiologicals and chlorine residual monitoring of water
45 systems shall be provided by the supplier of water as specified
46 in Chapter 62-550, F.A.C. or Chapter 10D-4 F.A.C., as applicable.
47 (2) Primary inorganic chemicals monitoring on water systems
48 shall be provided by the supplier of water as specified in
49 Chapter 62-550 F.A.C.
50 (3) Primary organic chemicals monitoring on water systems shall
51 be provided by the supplier of water for community water systems
52 as specified in Chapter 62-550 F.A.C.
53 (4) Monitoring for physical contaminants shall be provided by
54 the supplier of water for community and non-transient
55 non-community water systems as specified in Chapter 62-550.
56 (5) Monitoring for radionuclides shall be provided by the
57 supplier of water for community water systems and non-transient

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1 non-community water supply systems as specified in Chapter 62-550
2 F.A.C.
3 (6) Monitoring for secondary inorganic contaminants in
4 community water systems shall be provided by the supplier of
5 water as specified in Chapter 62-550 F.A.C.
6 (7) Monitoring for trihalomethanes, volatile organics and
7 synthetic organics shall be provided by the supplier of water for
8 water systems as specified in Chapter 62-550 F.A.C.
9 (8) Consecutive, community and non-transient non-community
10 water systems shall provide microbiological and chlorine residual
11 monitoring as specified in Chapter 62-550 F.A.C.
12 (9) Community water systems shall monitor for volatile and
13 synthetic organics including pesticides and herbicides as
14 specified in Chapter 62-550 F.A.C.
15 (10) Community and non-transient non-community water systems
16 shall monitor for the following from each raw water source or
17 well semi-annually:
18 Calcium, Ca
19 Chloride, Cl
20 Color
21 Iron, Fe
22 Nitrate, NO3
23 pH (Field)
24 Total dissolved solids
25 Conductivity
26 Total hardness, as CaCO3

27 **SECTION 7. REPORTING REQUIREMENTS**

28 The Supplier of water of any community, non-community or
29 non-transient non-community water supply system shall comply with
30 the reporting requirements as specified in Chapter 62-550 F.A.C.

31 **SECTION 8. NOTIFICATION REQUIREMENTS**

32 (1) The supplier of water of any community, non-community or
33 non-transient non-community water system shall comply with the
34 notification requirements as defined in Chapter 62-560, F.A.C.
35 (2) If a limited use public water system fails to comply with
36 an applicable maximum contaminant level or fails to comply with
37 an applicable testing procedure, established in Section 6, the
38 supplier of water shall give notice of such failure to the
39 persons served by the system by fixed signs located at all
40 potable water outlets or connections.
41 (3) In case of breakdown in purification or protective
42 equipment, breaks in main transmission lines, loss of water
43 pressure below 20 p.s.i., abnormal taste or odor, change in
44 treatment, or any interruption of water service to users, or any
45 circumstances which could affect the quality of the drinking
46 water, it shall be the duty of the water supplier to notify the
47 Department within one (1) hour of the occurrence. Notification
48 shall include the following information:
49 a. Description of the problem
50 b. Area affected
51 c. Number of connections or users affected
52 d. Estimated duration of problem
53 e. Method of notification to users.
54 Such information shall also be provided in writing on the monthly
55 operation report.
56 (4) If the water is shut off to the users and/or the water
57 pressure falls below 20 p.s.i., notification shall be given
58 immediately to the users either by written notice or through the
59 media of newspaper, radio or television of the interruption of
60 water service and/or the necessity to boil water. The notice to

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1 boil water shall remain in effect until two (2) consecutive days
2 of satisfactory bacteriological sample results have been obtained
3 from the area affected. Samples shall be taken twenty-four (24)
4 hours apart. The department shall notify the water supplier when
5 the boil water notice may be rescinded.

6 (5) Where public fire protection is provided by the mains
7 affected by the interruption, the utility water supplier shall
8 notify the Fire Marshall or the appropriate Fire Department
9 official that an interruption has occurred or will occur.

10 **SECTION 9. CONSTRUCTION AND DESIGN REQUIREMENTS**

11 Design Criteria - Approval for construction, extension, expansion
12 or use of any community or non-community non-transient
13 non-community and limited use public water supply system shall be
14 based on the criteria cited below, in Chapter 62-555 F.A.C. in
15 addition to the design criteria specified in Chapter 62-22,
16 F.A.C. and Chapter 40D-4, F.A.C. and the standards considered as
17 modern sanitary engineering practices.
18 Criteria in the references listed below are incorporated into
19 this code. If any differences in design criteria exists, the more
20 stringent standard shall be used.

21 (1) Lead pipes, solder and flux are prohibited for use in the
22 installation or repair of any drinking water system. This does
23 not apply to leaded joints necessary for the repair of cast iron
24 pipes. Solders and fluxes must contain not more than 0.2 percent
25 lead and fittings not more than 8.0 percent lead.

26 (2) A minimum of two (2) drinking water supply wells and pumps
27 shall be provided for each community water system that will serve
28 350 or more persons upon completion of construction.

29 (3) All water wells shall be constructed by a water well
30 contractor licensed by the South Florida Water Management
31 District in accordance with Chapter 62-21, F.A.C.
32 Chapter 62-22, or Chapter 40E-3, F.A.C., as applicable.

33 (4) All water wells to be used for drinking purposes except for
34 private water system wells shall be constructed in accordance
35 with Chapter 62-21 and Chapter 62-555 or Chapter 10D-4, F.A.C.,
36 as applicable.

37 (5) Private water system wells shall be constructed in
38 accordance with Chapter 40E-3, F.A.C., with the following
39 additions:

40 a) Well head shall be at least 6 inches above finished grade
41 level

42 b) Casing shall be surrounded at grade level by a two inch
43 thick concrete pad extending at least six inches in all
44 directions.

45 (6) Water wells for purposes other than for the supply of
46 drinking water shall be constructed in accordance with Chapter
47 40E-3, F.A.C.

48 (7) Whenever the pump is not set at the vertical casing, the
49 line between the vertical casing and pump shall be considered an
50 extension of the casing and protected from sanitary hazards in a
51 similar manner as the casing.

52 (8) For community, non-community and non-transient
53 non-community water systems having on-site sewage disposal
54 systems wells shall be located as specified in Chapter 62-555
55 F.A.C.

56 (9) Limited use public wells shall be placed a minimum distance
57 of 100 feet from any onsite sewage treatment and disposal system.

58 (10) a. Private water wells shall be placed a minimum distance
59 of 75 feet from any onsite sewage treatment and
60 disposal system or brine disposal area.

61 b. 50 feet from any non-drinking water well, pond, canal

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1 or other body of water.
2 c. 25 feet from poisoned soils, including but not limited
3 to building foundations.
4 (11) Community, non-community, non-transient non-community and
5 limited use public water wells shall be located a minimum
6 distance of:
7 a. 100 feet from other pollution sources, including but not
8 limited to drainage wells, gasoline or other petroleum
9 product under-ground storage tanks water softener brine
10 disposal areas except as otherwise provided in the Palm
11 Beach County Wellfield Protection Ordinance.
12 b. 100 feet from any non-drinking water well, pond, canal or
13 other body of water unless justified in accordance with
14 Chapter 62-555 F.A.C., but not less than 50 feet.
15 c. 25 feet from poisoned soils, including but not limited to
16 building foundations.
17 d. 500 feet from any sanitary landfill or recognized hazardous
18 or toxic waste site.
19 (12) Distances shown in 8, 9, 10 and 11 above may be increased
20 if required under Palm Beach County Environmental Control Rule I,
21 Section 8 (7).
22 (13) For limited use public and private water system wells,
23 construction shall be in accordance with criteria specified in
24 Chapter 10D-4 and 40E-3, F.A.C., as applicable.
25 (14) Any waste collection or transmission line within the
26 defined locations defined in the Palm Beach County Wellfield
27 Protection Ordinance shall be constructed in accordance with
28 current American Water Works Association, water main standards,
29 including the passing of the appropriate pressure and leakage
30 tests.
31 (15) Within thirty (30) days after the completion of the
32 construction or repair of any drinking water well, the water well
33 contractor shall submit a report to the Department on the
34 approved forms in accordance with the instructions provided
35 thereon.
36 (16) Water supply system wells shall be enclosed within
37 protective fencing when access is open to the general public.
38 (17) The cone of influence of a new well or wells serving a
39 community water supply system shall comply with the requirements
40 of the Palm Beach County Wellfield Protection Ordinance.
41 (18) All wells for which use has been permanently discontinued
42 shall be plugged by filling them from the bottom to the top with
43 neat cement grout, concrete or other method approved by the
44 Department.
45 (19) All existing community systems serving 350 or more persons
46 and all newly proposed community systems shall be equipped with a
47 source of auxiliary power to allow operation of the raw water
48 supply, water treatment units and pumping capacity. In addition,
49 such systems shall be provided with automatic start-up devices
50 except where elevated storage or 24 hour per day, 7 day per week
51 operation is provided. Such emergency power shall be of a
52 sufficient capacity to operate the water supply facility at
53 one-half design capacity. A minimum fuel supply for fourteen (14)
54 days of continuous operation for each item of auxiliary power
55 shall be maintained at the water treatment plant or under the
56 control of the utility and reserved for the water treatment
57 plant. Any fuel pumps required to transfer the fuel to the
58 auxiliary power units shall be equipped with their own auxiliary
59 power or manual pumping system.
60 (20) All community, non-community, and non-transient
61 non-community systems, including limited use public systems where
62 applicable, shall maintain a minimum reserve supply of chlorine
63 for emergency conditions. Such reserve shall be figured for
64 fourteen (14) days consumption for systems using gas chlorine and

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1 seven (7) days consumption for systems using hypochlorite
2 solution. The consumption shall be based, as a minimum on 50% of
3 design capacity.
4 (21) Disinfection.
5 A. All water supplies shall be designed to maintain a minimum
6 continuous and effective free chlorine residual within the
7 acceptable range of 3.0 mg/l maximum and 0.2 mg/l minimum or
8 equivalent disinfection if other than free chlorine is used as
9 the disinfection measure throughout the system. When utilizing
10 chlorine in combination with ammonia, a minimum combined residual
11 of 0.6 mg/l shall be maintained.
12 B. Limited use public water systems - The Department shall
13 require disinfection if bacteria is discovered in any sample of
14 water and it is determined that there is an existing or potential
15 health threat.
16 C. A minimum of two (2) chlorination facilities at the water
17 treatment plant shall be provided for each community water
18 system. Each chlorinator shall be of adequate capacity to supply
19 the total demand of the raw water at the rated capacity of the
20 treatment plant. Where more than two (2) chlorinators are
21 available, adequate capacity to supply the total chlorine demand
22 of the raw water shall be provided with the largest unit out of
23 service. Disinfection other than chlorination will be considered
24 on an individual basis by the Department.
25 D. Booster chlorination facilities shall be provided in the
26 distribution systems of community water systems to maintain the
27 disinfection requirements of (A) above to consecutive systems.
28 E. Consecutive systems shall be responsible for maintaining the
29 disinfectant residual requirements of (A) above within the
30 consecutive system.
31 (22) Water Treatment Plant and Storage - The approved design
32 capacity shall be adequate to provide for the maximum day demand
33 plus fire flow requirements and maintain the water quality
34 standards specified in this Rule.
35 (23) Distribution.
36 A. The sizing of the distribution lines shall be adequate to
37 provide the following without the development of distribution
38 pressures lower than twenty (20) pounds per square inch (20 psi).
39 (i) maximum day demand plus fire flow.
40 B. Except for repair or replacement of existing lines, the size
41 of new piping for any community system shall be no less than 6
42 inch diameter unless a departure in sizing is justified by
43 hydraulic analysis or historic analysis and future water use for
44 the area and is approved by Department based on such
45 circumstances.
46 C. In metered distribution systems, the supplier of water shall
47 be responsible for operation maintenance and repair of new water
48 lines up to and including the water meter.
49 D. Any new development or construction connecting to an offsite
50 water main shall provide an extension of that water main along
51 the public right-of-way or utility easements abutting the
52 property.
53 E. Fire hydrants shall be maintained by the owner in accordance
54 with standards established by the "Standards of the American
55 Water Works Association." If a fire hydrant is located downstream
56 of a water meter, the meter shall be designed to provide an
57 adequate flow without excessive pressure drop. Private fire
58 hydrant owners shall be required to request a dedicated private
59 fire line, separate from any drinking water line, where an
60 excessive drop through a metered source exists.
61 F. The required fire flow from fire hydrants approved for
62 installation prior to the effective date of this Rule shall be a
63 minimum of 500 G.P.M. for two (2) hours. Those approved after the
64 effective date of this Rule shall meet the following

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1 requirements:

- 2 (i) Residential Sub-divisions. In one or two family
3 dwellings not exceeding two stories in height, the
4 system shall provide capability for fire flow of at
5 least 500 gallons per minute.
6 (ii) Family dwellings of 3 or more units, Commercial,
7 institutional, or industrial sub-divisions, or other
8 high daytime or nighttime population density
9 developments; in new sub-divisions which include these
10 developments, fire hydrants in the areas of such
11 developments shall provide a minimum fire flow of 1,500
12 gallons per minute. However, a lower or higher flow may
13 be required by the Fire Marshall or by the appropriate
14 fire department official according to the Insurance
15 Services Office recommendations.
16 (iii) All systems shall have sufficient storage or other
17 facilities so that the minimum fire flow will be
18 maintained for at least four (4) hours or the current
19 recommendations of the Insurance the Insurance Services
20 Office, whichever is greater.

21 G. Dead end lines shall be minimized by the looping of all
22 mains were possible. Where dead end lines occur, they shall be
23 provided with flush hydrants, fire hydrants or blowoffs for
24 flushing purposes.

25 H. When the distribution demand, as determined in A(i) above,
26 reaches eighty (80) percent of approved design capacity the
27 supplier of water shall initiate the procedures for water
28 treatment plant expansion. In the event expansion procedures are
29 not initiated, the system shall be considered inadequate for
30 additional distribution expansion, and approval for additional
31 distribution expansion shall not be granted unless otherwise
32 justified by an engineering report covering the circumstances and
33 approved by the Department.

34 I. When the distribution demand, as determined in (20)A(i)
35 above, reaches ninety percent (90%) of the approved design
36 capacity, the supplier of water shall have the water treatment
37 plant expansion under construction. In the event construction is
38 not underway, the system shall be considered inadequate for
39 additional distribution expansion and approval for additional
40 distribution expansion shall not be granted unless otherwise
41 justified by an engineering report covering the circumstances and
42 approved by the Department.

43 SECTION 10. CONNECTION REQUIRED

44 A. All existing buildings served by non-community,
45 non-transient non-community and limited use water supply systems
46 or new limited use and private water supply systems shall connect
47 to an approved community water system where such a system has an
48 available water main within 100 feet in a public right-of-way or
49 easement abutting the property on which the building(s) are
50 located. Connection to an approved community water system shall
51 not be required.

- 52 (1) If connection requires an extension of the main; or
53 (2) If the main is located across four (4) or more lanes of
54 paved roadway; or
55 (3) If the utility is unable to provide water.

56 B. Notwithstanding the provisions of subsection A above, if the
57 Health Department determines that there is an existing or
58 potential health threat on the property served by a
59 non-community, non-transient non-community, or limited use public
60 water system, then the connection shall be made as required under
61 subsection C., below.

62 C. Establishments or buildings that utilize a non-community, or

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1 non transient non-community water system and are being
2 constructed, modified, expanded or changed in operation shall
3 connect to an approved community water supply system when said
4 system is available within 1,000 feet by existing right-of-way or
5 easement to the property. Each foot of water crossing, paved
6 roadway, or sidewalk shall be considered as two (2) feet; the
7 proposed supply shall not be required to cross interstate highway
8 or railroad systems. Property owners connecting to community
9 water supply systems under this subsection shall be required to
10 extend the water main along their public right-of-way utility
11 easements which abut the property.

12 **SECTION 11. BACKFLOW PREVENTION**

13 The following buildings, establishments or facilities connected
14 to a drinking water supply shall install and maintain backflow
15 prevention devices complying with current American Water Works
16 Association standards: nursing homes, hospitals, mortuaries,
17 funeral parlors, restaurants, sewage treatment plants, sewage
18 lift stations, public swimming pools and buildings using
19 corrosive, toxic, infectious, radioactive or other substances
20 which would be a health threat if they entered a drinking water
21 supply.

22 **SECTION 12. PERMITS/APPROVALS**

23 (1) The department shall review and approve or deny any
24 construction or use of any water supply system or facility based
25 on the criteria specified in this rule. Prior to submission to
26 the Department, plans involving distribution mains shall be
27 reviewed by the Fire Marshall or by the appropriate fire
28 department official.

29 (2) Construction Permits

30 A. No person shall install, extend or alter any water supply
31 system or facility including any well, plant, tank, pump station,
32 distribution system, fire line or other pipe or structures
33 without first obtaining a construction permit from the
34 Department.

35 B. Where required, applicants shall provide evidence
36 of their ability to secure a consumptive use permit from the
37 South Florida Water Management District; in addition evidence of
38 proper zoning is required prior to Department approval.

39 C. The applicant shall provide the necessary information and
40 design specifications requested and required by the Department to
41 conduct an adequate review of any proposed activity or
42 construction in addition to that information provided on the
43 Department of Environmental Protection (DEP) or Department (HRS)
44 (PBCPHU) application forms. The plans, applications and
45 specifications for community, non-community, or non-transient
46 non-community water wells and water systems except limited use
47 public, private and non-drinking use water wells shall be
48 prepared by a professional engineer, licensed in the State of
49 Florida.

50 D. Any submittal for community water systems, for which the
51 supplier of water is not the applicant but will require
52 ownership, operation or maintenance by the supplier of water,
53 shall require the acceptance stamp of the supplier of water on
54 the plans.

55 E. A permit shall not be required for distribution extensions
56 or services connections of less than 400 feet of 1 inch pipe, 200
57 feet of 2 inch pipe 100 feet of 4 inch or larger pipe, or road
58 crossing with less than 4 inch pipe when system capacity is
59 adequate as specified in Section 9.(20) (21).

60 F. Any extension of a distribution system within Palm Beach

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1 County for which the water supply facility is not located within
2 Palm Beach County, or distribution extension outside Palm Beach
3 County when the water supply facility is located within Palm
4 Beach County, shall require a permit from the Department and
5 written acceptance of the project from the responsible agency
6 outside the County. During construction partial releases may
7 be given by the Department. However, the pressure and leakage
8 test and the disinfection and bacteriological procedures shall be
9 followed in all cases.

10 (3) Approval for use.

11 A. No person shall put into service or use any drinking water
12 system or facility, including any well, plant, tank, pump
13 station, distribution system, fire line or other pipes or
14 structure without first having received written approval from the
15 Department.

16 B. Upon completion of construction of the water well or water
17 system, the following information shall be submitted to the
18 Department in order to obtain an approval for use:

- 19 (i) For water wells, a well completion report prepared by a
20 licensed water well contractor.
21 (ii) For water systems a certification of completion and
22 record drawings (sampling points shall be highlighted)
23 prepared by the Engineer of Record.
24 (iii) Chemical and bacteriological sample results as required
25 by this rule.

26 C. The certification of Completion for the water system or
27 facility shall include certification of any accompanying sewerage
28 system and evidence of the acceptance of the system or facility
29 by the supplier of water.

30 D. Uses of construction meters for construction water may be
31 approved by the Department in cases when accompanying sewer has
32 not been certified if the Department determines the water system
33 or facility has been satisfactorily tested and certified by the
34 engineer of record.

35 E. The Water Well Completion Report shall be submitted to the
36 Department within 30 days of the completion of construction or
37 repair of the water well.

38 F. The connection of new water mains to existing mains shall
39 not be completed until after the new mains have passed their
40 pressure and leakage tests and completed the disinfection and
41 bacteriological clearance procedures. During construction partial
42 releases may be given by the Department. However, the pressure
43 and leakage tests and the disinfection and bacteriological
44 procedures shall be followed in all cases. No water supply system
45 or facility, including any well, plant, tank, pump station,
46 distribution system, or other pipes, equipment or structure
47 through which water is delivered to the consumer for drinking or
48 household purposes, except certain community water supply service
49 connections not requiring a permit, shall be put into service or
50 used until such facility has been effectively disinfected and
51 bacteriologically cleared. Sample results shall be submitted to
52 the Department as follows:

- 53 (a) For all water systems, except wells, two (2) acceptable
54 consecutive daily samples shall be required.
55 (b) For a community, non-community, or non-transient
56 non-community well clearance, a minimum of twenty (20)
57 consecutive workday acceptable samples are required with
58 no more than two (2) samples taken daily. Samples shall
59 be taken at least 6 hours apart.
60 (c) For a limited use public water well clearance, a minimum
61 of ten (10) acceptable samples are required. The
62 collection and analysis of two samples per day for five
63 (5) days is permitted if the samples are taken a minimum
64 of six (6) hours apart and the well is purged for fifteen

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- 1 (15) minutes before each sample is taken.
2 (d) For a private water well clearance, one acceptable sample
3 shall be taken.
4 (e) Any sample analysis with confluent and/or too numerous to
5 count (TNTC) non-coliform counts shall not be accepted.
6 (f) Sample results from any water supply facility or well
7 shall not be accepted if more than 30 days has elapsed
8 since the taking of the last sample.

9 **SECTION 13. SAMPLING/ANALYTICAL METHODS**

- 10 (1) All water samples required under this Rule for community,
11 non-community, and non-transient non-community water systems,
12 including community water well and water main clearance shall be
13 taken by an employee of a laboratory certified to perform
14 drinking water analysis by the Department of Health and
15 Rehabilitative Services in accordance with Section 403.863
16 Florida Statutes, and Chapter 10D-41, Florida Administrative
17 Code, or an operator certified under Chapter 61E.12 F.A.C., or an
18 employee of the Department. Water samples for other public and
19 private water well clearance shall be taken by the licensed well
20 contractor that installed the well.
21 (2) All water samples shall be analyzed by a laboratory
22 certified to perform drinking water analyses by the Department of
23 Health and Rehabilitative Services in accordance with Section
24 403.863, Florida Statutes, and Chapter 10D-41, Florida
25 Administrative Code.
26 (3) Analyses conducted to determine compliance with this Rule
27 shall be made in accordance first with the methods specified in
28 Chapter 62-550, F.A.C., and if not specified then in accordance
29 with "Standard Methods of Examination of Water and Wastewater,"
30 latest Edition, or methods approved by the United States
31 Environmental Protection Agency.

32 **SECTION 14. OPERATION AND MAINTENANCE**

- 33 The following operation and maintenance requirements shall apply
34 to community, non-community and non-transient non-community water
35 systems except for only paragraphs (1), (4), (5) (6), (7) and (9)
36 shall also apply when applicable to limited use public water
37 systems:
38 (1) The supplier of water shall maintain all items of the water
39 supply facility in the approved operational condition.
40 (2) The supplier of water shall provide a certified operator as
41 specified in Chapter 62-699, 602, F.A.C. as it may be amended or
42 transferred.
43 (3) The certified operator servicing water systems shall
44 maintain an on-site log of maintenance performed, date performed
45 and problems encountered with the system.
46 (4) The supplier of water shall operate the water supply
47 facility to maintain continuously the free available chlorine
48 residual or equivalent disinfection between 3.0 mg/l and 0.2 mg/l
49 throughout the distribution system, and the total chlorine
50 residual no greater than 5.0 mg/l. When utilizing chlorine in
51 combination with ammonia, a minimum combined residual 0.6 mg/l
52 shall be maintained.
53 (5) The supplier of water shall operate the water supply
54 facility to produce continuously water meeting the pressure
55 quality requirements of this Rule.
56 (6) The supplier of water shall not make any change in
57 treatment or alter, discontinue or by-pass an purification
58 process or protective provisions without securing prior approval
59 from the Department.
60 (7) Cross-connection to any water supply system is prohibited.

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1 Upon detection of a cross-connection, the supplier of water shall
2 either eliminate the cross-connection by installation of an
3 approved backflow prevention device or discontinue service by
4 providing a physical separation.

5 (8) The supplier of water shall establish a routine
6 cross-connection control program and keep a maintenance log on
7 each backflow prevention device connected to its system.
8 Inspection, testing and maintenance on each backflow prevention
9 device shall be performed by a certified backflow prevention
10 device tester, certified under a State of Florida approved
11 program. The frequency of testing shall be minimum of once per
12 year or other schedule recommended by the manufacturer and
13 approved by the Department.

14 (9) The supplier of water shall establish a routine testing and
15 maintenance program on each fire hydrant connected to its system.
16 The frequency of testing shall be a minimum of once per year or
17 other schedule recommended by the manufacturer and approved by
18 the Department.

19 (10) Any planned water outages shall be scheduled by the water
20 supplier during periods of low water usage.

21 (11) The supplier of water shall operate for at least fifteen
22 (15) minutes all emergency power units at least once per week to
23 ensure starting capabilities and continuously for four (4) hours
24 under load once each calendar quarter to ensure dependability.

25 (12) The supplier of water shall conduct the necessary flushing
26 program to remove lime, sand or other objectionable sediments,
27 matter or material from its water
28 system.

29 (13) Each community, non-transient and non-community water
30 system shall maintain a distribution map showing the general
31 locations of the water lines and sizes, valves, fire hydrants,
32 flush hydrants and any inter-connections. The scale of the
33 distribution map shall be between 200 and 1,000 feet per inch or
34 other scale acceptable to the Department. A microfilm quality
35 copy of the current edition of this map shall be submitted to the
36 Department by February 28, of each even numbered year. The
37 Department may waive the submittal requirements for any water
38 supply in which no significant change has taken place within the
39 distribution system.

40 **SECTION 15. EMERGENCY OPERATION REQUIREMENTS**

41 (1) Where two (2) community water supply systems have
42 distribution or transmission lines within 1,000 feet of each
43 other, they shall provide an emergency interconnection between
44 the two systems when the Department determines that such a
45 connection would be of benefit to the citizens of Palm Beach
46 County. Such determination shall be based on the possibility of
47 destruction of the water source or treatment system in the event
48 of a disaster and the possible benefits in moving water between
49 the systems. Such inter-connecting lines shall be no smaller than
50 the smallest of the two (2) lines being inter-connected and shall
51 be provided with at least one valve and any necessary flush
52 points. If the two water suppliers are unable to reach an
53 agreement on the payment for installation of such an
54 interconnection, each supplier shall pay the cost of construction
55 from the supplier's line to the point of connection and shall pay
56 50% of the cost of a meter and meter box if either party desires
57 a meter and meter box. The point of connection shall be at the
58 following:

- 59 (i) Municipal limits or franchise boundaries if the
60 supplier's limits or boundaries are adjacent and
61 contiguous.
62 (ii) The midpoint of the municipal limits or franchise

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1 boundaries if the limits or boundaries are not adjacent
2 and contiguous.
3 The interconnection shall be completed within one (1) year after
4 the Department notifies the systems involved.
5 (2) Any consecutive or community water system may be required
6 to provide a flush or fire hydrant, water tap or other provision
7 for securing an emergency water service from an existing main at
8 a location that the Department determines would be of benefit to
9 the citizens of the area. Such determination shall be based in
10 part on the possibility of a prolonged power outage or other
11 disaster which would render individual wells in the area
12 unusable. Other considerations will include the density of
13 individual wells in the area and the distance of the nearest
14 possible potable water supply during an emergency. Such water
15 taps shall be constructed within 120 days of notification by the
16 Department. It shall be the responsibility of Palm Beach County
17 to secure an agreement with the community water system for use of
18 that emergency water service.

19 **SECTION 16. ADOPTION OF CHAPTERS OF FLORIDA ADMINISTRATIVE CODE**

20 Chapters 62, 550, 551, 555, 560, 602, 699, 40E-3 10D-6 and
21 10D-4, Florida Administrative Code, and all amendments thereto,
22 are hereby incorporated into this Rule. In the event of a
23 conflict between the provisions of these Chapters and this Rule,
24 the more restrictive provision shall apply.

25 **SECTION 17. ENVIRONMENTAL APPEAL BOARD**

26 (1) The Environmental Appeal Board, which was established by
27 the Environmental control Board on May 26, 1987, to hear appeals
28 from certain requirements, interpretations or determinations of
29 this Rule made by the Department or the Environmental Control
30 Officer, shall continue to hear appeals. The members of the
31 Environmental Appeal Board shall have the following
32 qualifications and terms of office:
33 (a) Members shall be residents of Palm Beach County and shall
34 serve three year term. However, the first term of the
35 water resource professional and the drinking water
36 engineer shall be for two years, but said terms shall be
37 for three years thereafter.
38 (b) The membership shall be as follows:
39 i. A professional engineer nominated by the American
40 Society of Civil Engineers, Palm Beach Branch.
41 ii. A water resource professional employed by the South
42 Florida Water Management District.
43 iii. A drinking water engineer employed by the Department of
44 Environmental Protection.
45 iv. A person nominated by the Home Builders and Contractors
46 Association.
47 v. An attorney nominated by the Palm Beach County Bar
48 Association.
49 (c) The members of the Environmental Appeal Board shall elect
50 a chairman. The presence of three or more members shall
51 constitute a quorum of the Environmental Appeal Board. A
52 majority vote of the membership shall be necessary to
53 take any action. Members shall serve without
54 compensation.
55 (d) Conduct of hearing:
56 (i) Hearing may be called by the chairman or by written
57 notice signed by at least three members of the
58 Environmental Appeal Board. At any hearing the
59 environmental Appeal Board may set a future hearing
60 date.

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- (ii) Minutes shall be kept of all hearings. The Environmental Appeal Board shall keep accurate records of its public hearings, which shall be filed, together with its minutes, in the Environmental Control Office.
- (e) The Environmental Control Board shall provide adequate and competent clerical and administrative personnel as may be required by the Environmental Appeal Board for the proper performance of its duties.

SECTION 18. APPEALS

(1) Persons aggrieved by requirement, interpretation or determination of Sections 9 and 10 of this Rule made by the Palm Beach County Public Health Unit or the Environmental Control Officer may appeal to the Environmental Appeal Board by filing a written notice of appeal with the Environmental Control Officer. The notice of appeal must be filed with the Environmental Control Officer within 30 days of the determination to be appealed. The notice shall be accompanied by a certified check or money order in the amount of \$100 made payable to the Palm Beach County Public Health Unit which shall be non-refundable, to defray the cost of processing and administering the appeal. Only those appeals requesting relief from setbacks under Section 9 or requesting an exception from connection to a public or investor-owned community water supply under Section 10 shall be filed.

(2) Each notice of appeal shall state the factual basis for the appeal and the relief requested. There shall be attached to each notice supportive materials and documents, including a site plan indicating proposed and existing individual sewage disposal systems and water wells on the property that is the subject of the appeal and all other systems and conditions on neighboring properties which could affect the requirements of Section 9 or 10 of this Rule if the appeal were granted. The Environmental Appeal Board may require such additional information as it deems necessary. A separate notice of appeal must be filed for each site or system considered for an appeal. Required supporting documentation for appeal must be filed with the Palm Beach County Public Health Unit or the Environmental Control Officer with the notice of appeal. The burden of presenting supporting facts in the notice of appeal shall be the responsibility of the person filing the appeal. The person filing the appeal shall have the burden of proving that he/she is entitled to relief. The Department and/or the Environmental Control Officer shall defend all appeals before the Environmental Appeal Board.

(3) The person filing the appeal shall also submit to the Environmental Control Officer a list of the names and addresses of every property owner who may be affected by the granting of the appeal.

(4) A hearing on the appeal shall be set within sixty (60) days of receipt of the notice of appeal by the Environmental Control Officer. This provision does not mean that the applicant is entitled to a hearing on the first available agenda following receipt of the notice of appeal.

(5) Formal rules of evidence shall not apply to the hearing but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be under oath. Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons shall be admissible, whether or not such evidence would be admissible in the trial courts of Florida. Hearsay evidence may be used for the purpose of supplementary or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over

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1 objection in civil actions.

2 (6) The parties shall have the following rights: to be
3 represented by counsel; to call and examine witnesses; to
4 introduce exhibits; to cross-examine witnesses on any relevant
5 matter, even though the matter was not covered in direct
6 examination; and to rebut evidence.

7 (7) The Environmental Appeal Board shall hear and consider all
8 facts material to the appeal and shall issue findings of fact
9 based upon the greater weight of the evidence and shall issue an
10 order affording the proper relief consistent with the powers
11 granted herein. The findings and order shall be by motion
12 approved by a majority of those members present and voting.

13 (8) In order to grant an appeal authorizing a new or existing
14 well for use in lieu of connecting to a public or investor-owned
15 community water supply, the Environmental Appeal Board must find
16 that:

17 (a) Satisfactory ground water is available or can be
18 obtained; and

19 (b) The well complies with all setbacks, construction
20 standards and other requirements of this Rule and
21 Chapters 62, 550, 555, 10D-6, 10D-4 and 40E-3, F.A.C.,
22 and

23 (c) Every reasonable effort has been made to obtain a water
24 supply from a public or investor-owned community water
25 supplier.

26 (9) In order to grant relief from Section 9 and or 10 of this
27 Rule the Environmental Appeal Board must find that:

28 (a) Satisfactory ground water can be obtained; and

29 (b) Every reasonable effort has been made to comply with the
30 requirements of this Rule in the location of the water
31 well; and

32 (c) The proposed water well complies with all construction
33 standards and other requirements of this Rule; and

34 (d) Advance notice shall be given to future purchasers of the
35 water system that the system shall be connected to a
36 community water supply when such a supply becomes
37 available. The purchaser has certain operational
38 requirements until such connection is completed.

39 (10) Provided that the factual findings specified in
40 subsections (8) or (9) are made, the Environmental Appeal Board
41 may reverse, modify or affirm, wholly or partly, the requirement,
42 interpretation or determination made by the Department or the
43 Environmental Control Officer. In granting an appeal, the
44 Environmental Appeal Board may prescribe appropriate conditions
45 and safeguards, consistent with this Rule. Violation of such
46 conditions and safeguards, when made a part of the terms under
47 which the appeal is granted, shall be deemed a violation of this
48 Rule. The Environmental Appeal Board may also prescribe a
49 reasonable time within which the action for which the appeal is
50 granted shall be started or completed or both. Any decision of
51 the Environmental Appeal Board shall be in the form of a written
52 order.

53 (11) If there is a change in the facts or circumstances
54 supporting a request for relief after an order granting relief
55 has been issued, then the applicant shall notify the Department.
56 The Department may request the Environmental Appeal Board to
57 revoke or amend the order.

58 (12) Except where the relief granted is to exempt an applicant
59 from the requirement to connect to a community water supply under
60 Section 10, any relief granted shall automatically terminate upon
61 the availability of a community water supply to the lot or
62 parcel. Upon the request of the Department or the Environmental
63 Control Officer, the Environmental Appeal Board may modify or
64 rescind an order granting relief from the requirements to connect

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1 to a public or investor-owned community water supply under
2 Section 10 in the conditions under which the appeal was granted
3 no longer exist. Unless otherwise provided in an order issued
4 pursuant to Section 18(8), relief granted under this Rule shall
5 automatically lapse if action for which the appeal was granted
6 has not been initiated within one (1) year from the date of
7 granting such appeal by the Environmental Appeal Board or, of
8 judicial proceedings to review the Environmental Appeal Board's
9 decision shall be instituted, from the date of entry of the final
10 order in such proceedings, including all appeals.

11 (13) The decision of the Environmental Appeal Board shall be
12 final administrative action. Any party or interested person may
13 appeal a decision of the Environmental Appeal Board to the
14 Circuit Court of Palm Beach County. Such appeal shall be filed
15 within 30 days of the execution of the Environmental Appeal
16 Board's Order.

17 SECTION 19. VIOLATIONS, ENFORCEMENT, PENALTIES AND INSPECTIONS

18 (1) Violations and Penalties:

19 It is unlawful for any person to violate any provision of this
20 Rule or any duly constituted order of the Palm Beach County
21 Environmental Control Hearing Board enforcing this Rule. Such
22 violations shall be subject to the enforcement and penalty
23 provisions of Chapter 77-616, Special Acts, Laws of Florida, as
24 may be amended from time to time and Palm Beach County
25 Environmental Control Ordinance No. 94-26, 32 as amended.

26 (2) Inspections:

27 a. It shall be the duty of the Palm Beach County Health
28 Director or his authorized representative to conduct such
29 inspections as are reasonable and necessary to determine
30 compliance with the provisions of this Rule.

31 SECTION 20. JUDICIAL REVIEW

32 Any person aggrieved by an action or decision of the Palm Beach
33 County Environmental Control Hearing Board including Palm Beach
34 County, may seek judicial review in the
35 Circuit Court of Palm Beach County.

36 SECTION 21. APPLICATION

37 This Rule shall apply to all the incorporated and unincorporated
38 areas of Palm Beach County, Florida.

39 **Subpart** Section 16.4, Open Burning, is created as follows:

40 Sec. 16.4 OPEN BURNING

41 A. Purpose and Intent. The purpose and intent of this section is
42 to ensure that open burning does not have a negative impact
43 on human health and welfare and the surrounding environment.
44 The specific objectives of this section are to encourage the
45 use of air curtain incinerators (ACIs) and to establish
46 guidelines for open burning.

47 B. Applicability. The standards of this section shall apply to
48 all activities involving open burning within the
49 unincorporated areas of Palm Beach County.

50 C. Exemptions. This section shall not apply to agricultural
51 burning which is regulated by Florida Administrative Code
52 (F.A.C.) Chapter 5I-2.

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- 1 D. Definitions. The following definitions shall apply to this
2 section only.
3 1. Open burning means the burning of land clearing debris.
4 2. Land clearing debris means uprooted or cleared vegetation.
5 This includes vegetative material, trees, and brush.
6 3. Land clearing operation means the uprooting or clearing of
7 vegetation in connection with building construction or the
8 initial clearing of vegetation to enhance property values.
9 4. Residential land clearing means the initial land clearing of
10 vegetation on a parcel consisting of not more than two
11 dwelling units.
- 12 E. Open burning prohibitions and limitations. The following
13 activities shall be prohibited:
14 1. Open burning of trash, pesticide containers, plastic and
15 other materials except as provided for in Florida
16 Administrative Code (FAC) Chapter 62-256.
17 2. Burning of wet and/or green vegetation.
18 3. Burning on weekends, except for residential clearing
19 purposes.
20 Note: Open burning for commercial or planned development on
21 weekends may be allowed by the Palm Beach County Public
22 Health Unit (PBCPHU), on a case-by-case basis, depending on
23 such factors as meteorological conditions, proximity to
24 occupied buildings, and the compatibility of the surrounding
25 area.
26 4. An air curtain incinerator shall be required for commercial
27 or planned developments less than 50 acres.
28 5. No person shall conduct or allow open burning without first
29 obtaining a permit from the Palm Beach County Fire
30 Department.
- 31 F. Minimum setback requirements.
32 1. Air curtain incinerators. Air curtain incinerators shall be
33 setback a minimum of 500 feet from any property line
34 abutting a residential district or use.
35 a. The required setback for an ACI may be reduced to a
36 minimum of 200 feet if authorized by the PBCPHU director,
37 or designee, and if it is determined that the burning
38 will not adversely affect the area.
39 2. Open burning of land clearing debris. Open burning without
40 an air curtain incinerator shall be located a minimum of
41 1,500 feet from occupied buildings (excludes residential
42 land clearing).
43 3. Residential land clearing. Open burning without an air
44 curtain incinerator shall be located a minimum of 300 feet
45 from an occupied building.
46 4. Commercial or planned developments. Open burning shall be
47 setback a minimum of one-hundred fifty (150) feet from any
48 public highway or road.
49
- 50 G. Approval process.
51 1. Permits and inspections. Prior to approving an open burning
52 permit, the cleared site shall be inspected by the PBCPHU.
53 a. The inspector shall verify the following:
54 (1) the type and condition of materials to be burned;
55 (2) compliance with minimum setbacks;
56 (3) compatibility with adjoining properties;

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- 1 (4) hours of operation;
2 (5) the ACI pit shall be constructed in accordance with FAC
3 62-256; and,
4 (6) compliance with conditions of the threshold review (if
5 required).
- 6 b. The inspector may impose further restrictions to
7 compensate for meteorological (stagnant atmospheric
8 conditions, wind directions, etc.) or other conditions to
9 protect the surrounding area, when deemed appropriate.
- 10 c. The applicant shall obtain a permit from the appropriate
11 Palm Beach County fire department following approval
12 from the PBCPHU. In addition the fire department shall
13 be contacted on a daily basis to obtain authorization for
14 burning.
- 15 2. Commercial or planned developments 50 acres or more. All
16 commercial land clearing or planned developments greater
17 than 50 acres shall be subject to an administrative
18 threshold review by PBCPHU prior to final site plan
19 approval. The developer or agent shall submit a written
20 detailed summary outlining the health and safety
21 precautionary measures to be taken.
- 22 H. Additional Standards
- 23 1. Monitoring. The appropriate Palm Beach County fire
24 department shall monitor all open burning and report the
25 status of open burning projects with potential air pollution
26 problems to the PBCPHU.
- 27 2. Particulate Emissions. Developers or their agents shall take
28 all reasonable precautions to prevent fugitive particulate
29 emissions from becoming a nuisance to surrounding
30 properties.
- 31 3. Compliance. Failure to comply with the conditions of this
32 section may result in enforcement and/or suspension of open
33 burning.
- 34 Subpart Article 18., Airport Zoning Regulations is created as
35 follows:
- 36 Section I. Purpose and Intent.
- 37 These provisions are intended to regulate permitted construction
38 to promote the maximum safety of aircraft arriving at and
39 departing from the publicly-owned airports within Palm Beach
40 County; to promote the maximum safety of residents and property
41 in areas surrounding Palm Beach County Airports; to promote the
42 full utility of Palm Beach County Airports and public use
43 airports; to provide structure height standards for use within
44 airport primary, horizontal, conical, approach and transitional
45 surfaces so as to encourage and promote the proper and sound
46 development beneath said areas; and to provide administrative
47 procedures for the efficient and uniform regulation of all
48 development proposals within said zones.
- 49 Section II. Short Title and Authority.
- 50 A. This Ordinance shall be known and cited as the "Airport
51 Zoning Ordinance."

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1 B. This Ordinance is enacted pursuant to the provisions of
2 Article VIII, Section 1(g) of the Florida Constitution;
3 Chapter 125, Florida Statutes (1995) Chapter 333, Florida
4 Statutes (1995).

5 **Section III. Applicability.**

6 A. This Ordinance regulates height and land uses around
7 publicly owned airports in Palm Beach County. The height
8 standards for structures provide maximum height limits and
9 a review procedure to determine if structures will have an
10 adverse impact on safe and efficient airspace use. The land
11 use standards provide restrictions and a review procedure
12 within four nautical miles of publicly owned airports to
13 determine if the land use is compatible with normal airport
14 operation and Federal Aviation Administration (FAA)
15 guidelines. The land use standards apply to the highest
16 hazard areas and Noise zones, and limit uses which include,
17 but are not limited to, hazardous material storage,
18 emissions of light or smoke, or uses which attract
19 concentrations of people or birds.

20 B. This Ordinance applies to all land in unincorporated Palm
21 Beach County.

22 C. This Ordinance also applies to all municipalities that may
23 elect to participate through interlocal agreement, pursuant
24 to Chapters 163 and 333.03, (1) (b) 1, Florida Statutes, or to
25 all affected municipalities if a Joint Airport Zoning Board
26 is created pursuant to Section 333.03 (1) (b) 2, Florida
27 Statutes (1994).

28 D. These regulations supplement other land development
29 regulations in this code.

30 E. Where there exists a conflict between any of the
31 regulations or limitations prescribed in this Article and
32 any other regulations applicable to the same area, the more
33 stringent limitation or requirement shall govern and
34 prevail.

35 **Section IV. Definitions.**

36 For the purpose of this Ordinance, the terms shall have the
37 meaning as presented in this section. Additional definitions are
38 found in Article 3 of this Code. In case of conflict, the terms
39 as defined in this section shall apply.

40 Aircraft - any vehicle which is used or designed for navigation
41 of or flight in the air.

42 Airport - Palm Beach International Airport, Palm Beach County
43 Park Airport (Lantana), Palm Beach County Glades Airport
44 (Pahokee), Belle Glade Municipal Airport, Palm Beach North County
45 Airport and Boca Raton Airport and any area owned or operated by
46 Palm Beach County, or other public entity, intended to be used
47 for the taking-off, maneuvering and landing of aircraft,
48 including any seaplane base, heliport or vertiport, validly
49 licensed by the state for public use.

50 Airport Elevation - the highest point of an airport's usable
51 landing area measured in feet above mean sea level (AMSL).

52 Airport Hazard - any man-made structure, object of natural growth

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1 or use of land which would exceed the Federal obstruction
2 standards as contained in Federal Aviation Regulation Part 77 (as
3 may be amended from time to time) and which obstructs the
4 airspace or may otherwise be hazardous to aircraft taking-off,
5 maneuvering or landing at an airport.

6 **Airport Hazard Area** - any area of land or water upon which an
7 airport hazard might be established if not prevented as provided
8 in this article.

9 **Airport Obstruction** - any man-made structure, object of natural
10 growth or use of land which would exceed the Federal obstruction
11 standards as contained in Federal Aviation Regulation Part 77 (as
12 may be amended from time to time).

13 **Airspace Height** - the height limits as established and set forth
14 in this Section. Above Mean Sea Level (AMSL) elevation shall be
15 the datum unless otherwise specified.

16 **ALUNZ** - Airport Land Use Noise Zone.

17 **Approach Zone** - an area longitudinally centered on the extended
18 runway centerline and extending outward and upward from each end
19 of the primary zone. An approach zone is designated for each
20 runway based upon the type of approach available or planned for
21 that runway end.

22 **Avigation Easement** - the assignment of a right to an airport
23 proprietor to a portion of the total benefits of the ownership of
24 real property. The selected rights may be granted or may be
25 purchased.

26 **Climb Gradient** - an aircraft instrument departure procedure
27 requiring adherence to minimum climb stops or grade expressed in
28 feet per nautical mile.

29 **Conical Zone** - the area extending outward from the periphery of
30 the horizontal zone for a distance of 4,000 feet.

31 **Day-Night Average Sound Level (L_{dn})** - a 24-hour average Noise
32 level in weighted decibels, for a period from midnight to
33 midnight, adding a 10-decibel penalty for each Noise event during
34 the hours between midnight and 7:00 a.m. and 10:00 p.m. and
35 midnight.

36 **Decision Height** - the height at which a pilot must decide, during
37 an Instrument Landing System (ILS) approach, to either continue
38 the approach or to execute a missed approach.

39 **Determination** - the term used by FAA to denote the outcome of an
40 aeronautical study under FAR Part 77 (See: Airport Hazard or No
41 Hazard).

42 **F.A.R. (Part 77)** - Federal Aviation Regulation. The "Part
43 numbers" identify specific subject areas. All FARs are contained
44 in Title 14, CFR. (Part 77 - Title : *Objects Affecting Navigable*
45 *Airspace*).

46 **Hazard** - an advisory determination rendered by the FAA at the
47 conclusion of an Aeronautical Study made under FAR Part 77
48 indicating the proposed structure is not a safe and/or efficient
49 use of airspace.

50 **Heliport or Vertiport** - an identifiable ground level or elevated

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1 area which is validly licensed by the State of Florida for public
2 use and is intended to be used for the take off and landing of
3 helicopters, tilt rotors or any other vertical takeoff and
4 landing rotorcraft.

5 Horizontal Zone - the area around each airport with an outer
6 boundary constructed by swinging arcs of specified radii from the
7 center of each end of the primary zone of each airport's runways
8 and connecting adjacent area by lines tangent to those arcs. The
9 radius of the arc specified for each end of a value will be the
10 highest composite value determined for either end of the runway.
11 When a 5,000-foot arc is encompassed by tangents connecting two
12 adjacent 10,000-foot arcs, the 5,000-foot arc shall be
13 disregarded on the construction of the perimeter of the
14 Horizontal Zone.

15 Instrument Approach Procedure - a specified, published set of
16 operating procedures issued by the FAA and used by a pilot to
17 land an aircraft at an airport without visual reference to the
18 ground.

19 Instrument Landing System (ILS) - a landing approach system that
20 establishes a course and a descent path to align aircraft with a
21 runway for final approach.

22 Minimum Descent Altitude (MDA) - the lowest altitude expressed in
23 feet above mean sea level (AMSL), to which descent is authorized
24 on final approach or during circling-to-land maneuvering in
25 execution of a standard instrument approach procedure (SIAP)
26 where electronic glide slope is not provided.

27 Minimum Obstruction Clearance Altitude (MOCA) - the lowest
28 published altitude in effect between radio fixes on Federal VOR
29 airways, off-airway routes, or route segments that meets
30 obstruction clearance requirements for the entire route segment
31 and assures acceptable navigational signal coverage only within
32 twenty-two (22) miles to a VOR.

33 Minimum Vectoring Altitude (MVA) - the lowest altitude AMSL at
34 which aircraft operating under IFR conditions will be vectored by
35 a radar controller, except when otherwise authorized for radar
36 approaches, departures or missed approaches.

37 Nautical Mile - a unit of length used in air navigation, based on
38 the length of one minute of arc of a great circle, and equivalent
39 to U.S. unit equal to 1,852 meters, or 6,076 feet.

40 Noise Level Reduction - a comparison of outdoor to indoor Noise
41 levels, expressed in dB., i.e., a structure requiring a 30 dB NLR
42 is one to which modifications must be made to achieve a 30 dB
43 reduction in interior noise levels as compared to exterior noise
44 levels.

45 No-Hazard - an advisory determination rendered by the FAA at the
46 conclusion of an Aeronautical Study made under FAR Part 77
47 indicating the proposed structure may be safely and/or
48 efficiently accommodated in navigable airspace.

49 Non-precision Instrument Runway - a runway having a non-precision
50 instrument approach procedure utilizing air navigation facilities
51 with only horizontal guidance, or area type of navigation
52 equipment, for which a straight-in non-precision instrument
53 approach procedure has been approved or planned, and for which no
54 precision instrument approach facilities are planned or indicated

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1 on an appropriate FAA civil or military service airport planning
2 documents.

3 Obstruction to Air Navigation - any existing or proposed manmade
4 object or object of natural growth or terrain that exceeds the
5 standards contained in this Article, and contained in 14 CFR ss.
6 77.21, 77.23, 77.25, 77.28, and 77.29

7 Other Than Utility Runway - a runway designed for and intended to
8 be used by all types of aircraft including those having gross
9 weights greater than 12,500 pounds.

10 Precision Instrument Runway - a runway having an instrument
11 approach procedure utilizing horizontal and vertical guidance
12 through an Instrument Landing System (ILS), Microwave Landing
13 System (MLS), or a Precision Approach Radar (PAR) including a
14 runway for which such a system is planned and is so indicated on
15 an approved civil or military airport layout plan, other FAA
16 planning documents, or comparable military service planning
17 documents.

18 Primary Zone - an area longitudinally centered on a runway,
19 extending 200 feet beyond each end of that runway with the width
20 so specified for each runway for the most precise approach
21 existing or planned for either end of the runway.

22 Runway - a defined area on an airport prepared, used or intended
23 to be used for the taking-off and landing of aircraft along its
24 length.

25 Runway Protection Zone (RPZ) - an area off the runway end
26 established to enhance the protection of people and property on
27 the ground. Specifically, the RPZ is an area off the runway end
28 extending outward and upward, parallel to the extended runway
29 centerline, in the dimensions shown in Table 1.

30 Structure - any object, temporarily or permanently constructed or
31 installed by man, including but not limited to: buildings,
32 towers, smoke stacks, utility poles, antennas, construction
33 cranes and overhead transmission lines.

34 Terminal Navigational Aid - any visual or electronic device on
35 the surface which provides point-to-point guidance information or
36 position data to aircraft in flight and is located on a public
37 use airport in Palm Beach County.

38 Transitional Zone - the area extending outward from the sides of
39 the Primary Zones and Approach Zones connecting them to the
40 Horizontal zone.

41 Utility Runway - a runway that is constructed for and intended to
42 be used by propeller driven aircraft of 12,500 pounds maximum
43 gross weight and less.

44 Visual Hazard - any source which emits occasional or permanent
45 smoke, glare, dust, or any other perceptible emission that could
46 be a risk to safe aircraft operations.

47 Visual Runway - a Runway intended solely for the operation of
48 aircraft using visual approach procedures with no straight-in
49 instrument approach procedure and no instrument designation
50 planned or indicated on the FAA-approved civil or military
51 airport layout plan, or by any other planning document submitted
52 to the FAA by competent authority.

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1 Section V. Acronyms. For the purpose of this Ordinance, the
2 abbreviations and acronyms shall have the meaning as presented in
3 this section.

4 ALUNZ - Airport Land Use Noise Zone.

5 AMSL - Above Mean Sea Level.

6 ASR - Airport Surveillance Radar.

7 CFR - Code of Federal Regulations.

8 DOA - Palm Beach County Department of Airports.

9 FAA - Federal Aviation Administration.

10 FDOT - Florida Department of Transportation.

11 IFR - Instrument Flight Rules.

12 ILS - Instrument Landing System.

13 Ldn - Day-Night Average Sound Level.

14 MDA - Minimum Descent Altitude.

15 MLS - Microwave Landing System.

16 MOCA - Minimum Obstruction Clearance Altitude.

17 MVA - Minimum Vectoring Altitude.

18 NLR - Noise Level Reduction.

19 PAR - Precision Approach Radar.

20 PZB - the Palm Beach County Department of Planning Zoning and
21 Building.

22 RPZ - Runway Protection Zone.

23 SIAP - Standard Instrument Approach Procedure.

24 VOR - Very-high frequency Omni-range.

25 VFR - Visual Flight Rules.

26 Section VI. Airspace Height Regulations.

27 A. General. In order to carry out the provisions of this
28 Ordinance, there are hereby created and established certain zones
29 which include all of the applicable land lying beneath the
30 primary, horizontal, conical, approach, and transitional surfaces
31 as they apply to a particular airport. To regulate height, an
32 Airspace Notification Map (attached as Appendix 1) and a
33 procedure to review the permitting of tall structures has been
34 established. Airport height limitations and the notification
35 procedures established in this Section conform to the standards
36 for determining obstructions to air navigation of F.A.R. Part 77,
37 ss. 77.23.

38 B. Regulated Construction. For purposes of this Section,
39 construction includes but is not limited to creating new
40 structures or adding height to any existing structure and shall

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1 include the location of derricks, draglines, cranes and other
2 boom-equipped machinery. Construction does not include any
3 development which does not have the effect of adding height to
4 the land or other structure, such as paving, draining or roofing.

5 **C. Regulated Areas.** The various surfaces displayed as Zone 1 and
6 Zone 2 on the Palm Beach County "Airspace Notification Map" are
7 defined below. Penetration of one of these zones shall require a
8 technical analysis by FAA and a review of the analysis by the
9 Palm Beach County DOA, PZB Department, and other applicable
10 governmental agencies in accordance with this article.

11 **a. Publicly-Owned, Public Use Palm Beach County Airports:**

12 (1) Zone 1 - All construction within 3,500 feet from the airport
13 reference point in all directions.

14 (2) Zone 2 - Any construction of a height exceeding the
15 limitations of any zone established in this Section within a 4
16 nautical mile radius of the airport reference point.

17 (3) any construction or alteration of a height greater than an
18 imaginary surface extending outward and upward for a distance of
19 20,000 feet from the reference point of any terminal navigational
20 aid facility up to a height of 200 feet above ground level.

21 **b. All Palm Beach County Heliports:** Any construction or
22 alteration of a height greater than an imaginary surface
23 extending outward and upward from any point of any public or
24 private State licensed Palm Beach County Heliport for a distance
25 of 5,000 feet up to a height of 200 feet above ground level.

26 **c. Terminal Navigational Aid Notification Areas:** Any
27 construction or alteration within 5,000 feet of any navigational
28 aid facility; and

29 **d. Other Areas:** any construction or alteration of a height
30 greater than 200 feet above ground level.

31 **D. Airport Zones Established.** Primary, Horizontal, Conical,
32 Approach and Transitional Airport Zones are shown on maps
33 described below. These maps are on file at the DOA and PZB and
34 are incorporated herein. These maps are included by reference and
35 attached as Appendices 2-7.

36 Map A - Palm Beach International Airport (Appendix 2)

37 Map B - Palm Beach County Park Airport (Lantana) (Appendix 3)

38 Map C - Palm Beach County Glades Airport (Pahokee) (Appendix 4)

39 Map D - Belle Glade Municipal Airport (Appendix 5)

40 Map E - Palm Beach North County Airport (Appendix 6)

41 Map F - Boca Raton Airport (Appendix 7)

42 **E. Airport Runway Categories Defined.** The size and dimensions of
43 each zone created and established as part of this section is
44 based upon the category of each runway, according to the type of
45 approach available or planned for that runway. The category of
46 each runway for airports included in this Article are listed in
47 Table 1.

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**Table 1. Runway Category and Runway Protection Zone (RPZ)
Defined, by Airport**

AIRPORT/RUNWAY		RUNWAY	RUNWAY PROTECTION ZONE DIMENSIONS			
			LENGTH	INNER WIDTH	OUTER WIDTH	RPZ ACRES
Palm Beach International	Runway 09L/27R	Precision	1,700	1,000	1,510	48.978
	Runway 13/31	Non-precision	1,700	500	1,010	29.465
	Runway 09R/27L	Visual	1,000	500	700	13.770
Palm Beach County Park (Lantana)	Runway 09/27	Non-precision	1,700	500	1,010	29.465
	Runway 15/33	Non-precision	1,700	500	1,010	29.465
	Runway 03/21	Visual	1,000	500	700	13.770
Palm Beach County Glades (Pahokee)	Runway 17/35	Non-precision	1,700	500	1,010	29.465
Dells Glade Municipal	Runway 09/27	Visual	1,000	500	700	13.770
Palm Beach North County	Runway 08R/26L	Precision	1,700	1,000	1,510	48.978
	Runway 13/31	Non-precision	1,700	500	1,010	29.465
	Runway 08L/26R	Visual	1,000	500	700	13.770
Boca Raton	Runway 05/23	Non-precision	1,700	500	1,010	29.465

F. Airport Height Limitations.

1. General. Where any two limitations in this ordinance are in conflict, the more stringent applies. Except as otherwise provided in this Section, no structure, or object of natural growth shall be erected, altered, or be maintained without prior approval by DOA or PZB, which is or would be an obstruction to air navigation, as defined in this Article, or of a height greater than:

(1) 500 feet above ground level at the site of the object; or

(2) 200 feet above ground level or the established airport elevation, whichever is higher. These heights shall be measured within three nautical miles of the established reference point of an airport; and which height increases up to a maximum of 500

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feet, at a slope of 1 foot vertically for every 100 feet horizontally, for a distance of 50,000 feet; or
 (3) Any object within the approach segment, departure area, or any missed approach or circling approach area which is determined by the Airports Director to be a hazard to the safe and efficient use of airspace around an airport.

G. Airport Height Zone Definitions and Limitations. A property located in more than one of the described zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined below. These zones are depicted in plan view in Appendix 2 through 7 and in isometric view in Appendix 15. The specific definitions of each airport height zone (horizontal distance, width, arc radius, etc.,) are listed on Table 2. General definition and height limitations are described in the Subsections to follow.

TABLE 2.
 SPECIFIC ZONE DEFINITION, BY AIRPORT, BY RUNWAY

AIRPORT/ RUNWAY	PRIMARY ZONE WIDTH (in feet)	HORIZONTAL ARC RADIUS (in feet)	CONICAL ZONE (in feet)	APPROACH ZONE (in feet)		
				Horizontal Dist	Inner Width	Outer Width
<u>PALM BEACH INTERNATIONAL AIRPORT</u>						
Rwy 09L/27R	1,000'	10,000'	4,000'	50,000'	1,000'	16,000'
Rwy 13/31	500'			10,000'	500'	3,500'/1,500'
Rwy 09R/27L	250'			5,000'	250'	1,250'
<u>PALM BEACH COUNTY PARK AIRPORT (LANTANA)</u>						
Rwy 09/27	500'	5,000'	4,000'	5,000'	500'	2,000'/1,250'
Rwy 15/33						2,000'/1,250'
Rwy 03/21						1,250'
<u>PALM BEACH COUNTY GLADES AIRPORT (PAHOKEE)</u>						
Rwy 17/35	500'	5,000'	4,000'	5,000'	500'	2,000'
<u>BELLE GLADE MUNICIPAL</u>						
Rwy 09/27	250'	5,000'	4,000'	5,000'	250'	1,250'
<u>PALM BEACH NORTH COUNTY AIRPORT</u>						
Rwy 08R/26L	1,000'	10,000'	4,000'	50,000'/10,000'	1,000'	16,000'/3,500'
Rwy 13/31	500'			10,000'/5,000'	500'	3,500'/1,500'
Rwy 08L/26R	250'			5,000'	250'	1,250'
<u>BOCA RATON AIRPORT</u>						
Rwy 05/23	500'	10,000'	4,000'	10,000'	500'	3,500'

1. Primary Zone Definition - An area longitudinally centered on a runway, extending 200 feet beyond each end of that runway with the width so specified for each runway for the most precise approach existing or planned for either end of the runway.

a. Primary Zone Height Limitations: No structure or obstruction will be permitted within the Primary Zone that is not part of the landing, maneuvering and taking-off facilities and is of a greater height than the nearest point of the runway centerline.

b. Primary Zone Width for each Specific Airport: The specific width of each Primary Zone for each airport is listed in Table 2.

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1 2. Horizontal Zone Definition - The area around each airport
2 with an outer boundary the perimeter of which is constructed by
3 swinging arcs of specified radii from the center of each end of
4 the Primary Zone of each airport's runways and connecting
5 adjacent area by lines tangent to those arcs. The radius of the
6 arc specified for each end of a value will be the highest
7 composite value determined for either end of the runway. When a
8 5,000-foot arc is encompassed by tangents connecting two adjacent
9 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the
10 construction of the perimeter of the Horizontal Zone.

11 a. Horizontal Zone Height Limitations: No structure or
12 obstruction that has a height greater than 150 feet above the
13 airport elevation, will be permitted in the Horizontal Zone.

14 b. Horizontal Arc Radius for each Specific Airport: The specific
15 horizontal arc Radius of each airport is listed above in Table 2.

16 3. Conical Zone Definition - The area extending outward from the
17 periphery of the Horizontal Zone for a distance of 4,000 feet.
18 The specific Conical Zone distance for each airport is listed
19 above in Table 2.

20 a. Conical Zone Height Limitation: No structure or obstruction
21 will be permitted in the Conical Zone that has a height greater
22 than 150 feet above the airport elevation at the inner boundary
23 (connecting the Horizontal Zone) with permitted height increasing
24 at a slope of 1 foot vertically for every 20 feet of horizontal
25 distance, measured outward from the inner boundary to a height
26 350 feet above the airport elevation at the outer boundary.

27 4. Approach Zone Definition - An area longitudinally centered on
28 the extended runway centerline and extending outward and upward
29 from each end of the primary zone. An Approach Zone is designated
30 for each runway based upon the type of approach available or
31 planned for that runway end.

32 a. Approach Zone Height Limitations: The permitted height
33 limitation within an outer or inner Approach Zone is the same as
34 the runway end height at the inner edge and increases with
35 horizontal distance outward from the inner edge based upon the
36 calculation method listed in Table 3.

37 b. Approach Zone Horizontal Distance for each Specific Airport:
38 The specific Approach Zone dimensions for each airport is listed
39 above on Table 2.

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Table 3.
Specific Approach Zone Height Limitation Calculation, By Airport,
By Runway

AIRPORT/RUNWAY		APPROACH ZONE HEIGHT LIMIT CALCULATION
<u>Palm Beach International</u>	<u>Runway 09L/27R</u>	<u>1 foot vertically for every 50 feet of horizontal distance for the first 10,000 feet, and then 1 foot vertically for every 40 feet of horizontal distance for an additional 40,000 feet.</u>
	<u>Runway 13/31</u>	<u>1 foot vertically for every 34 feet of horizontal distance.</u>
	<u>Runway 09R/27L</u>	<u>1 foot vertically for every 20 feet of horizontal distance.</u>
<u>Palm Beach County Park (Lantana)</u>	<u>Runway 09/27</u>	<u>1 foot vertically for every 20 feet of horizontal distance.</u>
	<u>Runway 15/33</u>	
	<u>Runway 03/21</u>	
<u>Palm Beach County Glades (Pahokee)</u>	<u>Runway 17/35</u>	<u>1 foot vertically for every 20 feet of horizontal distance.</u>
<u>Belle Glade Municipal</u>	<u>Runway 09/27</u>	<u>1 foot vertically for every 20 feet of horizontal distance.</u>
<u>Palm Beach North County</u>	<u>Runway 08R/26L</u>	<u>Runway 08R: 1 foot vertically for every 50 feet of horizontal distance for the first 10,000 feet, then one foot vertically for every 40 feet of horizontal distance for an additional 40,000 feet. Runway 26L: 1 foot vertically for every 34 feet of horizontal distance.</u>
	<u>Runway 13/31</u>	<u>1 foot vertically for every 20 feet of horizontal distance.</u>
	<u>Runway 08L/26R</u>	
<u>Boca Raton</u>	<u>Runway 05/23</u>	<u>1 foot vertically for every 34 feet of horizontal distance</u>

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1 5. Transitional Zone Definition - The area extending outward
2 from the sides of the Primary Zones and Approach Zones connecting
3 them to the Horizontal Zone. Height limits within the
4 Transitional Zone are the same as the Primary Zone or Approach
5 Zone at the boundary line where these Zones meet (i.e., level
6 with the nearest point on the runway centerline) and increase at
7 a rate of 1 foot vertically for every 7 feet horizontally, with
8 the horizontal distance measured at right angles to the runway
9 centerline and extended centerline, until the height matches the
10 height of the Horizontal Zone, the Conical Zone or for a
11 horizontal distance of 5,000 feet from the side of the part of
12 the Precision Approach Zone that extends beyond the Conical Zone.

13 a. Transitional Zone Height Limitation: No object or structure
14 will be permitted within the Transitional Zone greater in height
15 than the Primary Zone or Approach Zone at their adjoining
16 boundary lines increasing at a rate of 1 foot vertically for
17 every 7 feet horizontally, with the horizontal distance measured
18 at right angles to the runway centerline and extended centerline,
19 until the height of the slope matches the height of the
20 Horizontal Zone or the height of the Conical Zone and for a
21 horizontal distance of 5,000 feet from each side of that part of
22 the Approach Zone for a Precision Instrument Runway extending
23 beyond the Conical Zone.

24 6. Terminal Navigational Aid Obstruction Zone Definition -
25 Operation of a Navigational Aid Facility is electromagnetic in
26 nature therefore, objects constructed off of airport property may
27 have an adverse affect on the safe and efficient operation of
28 navigational facilities. An Airport Surveillance Radar (ASR)
29 facility Navigational Aid Obstruction Zone has been established
30 extending in all directions to a radius of 3,500 feet from the
31 navigation aid. This zone is shown on the Airspace Notification
32 Map, Appendix 1.

33 a. Terminal Navigational Aid Obstruction Zone Limitation: No
34 construction or alteration or installation of any electromagnetic
35 device shall be permitted within this Navigation Aid Obstruction
36 Zone without prior technical review by the FAA. If deemed
37 necessary by the results of the FAA review, approval must be
38 obtained from DOA and PZB.

39 7. Heliport/Vertiports.

40 a. Primary Zone Definition: The Primary Zone coincides in size
41 and shape with the designated take-off and landing area of a
42 Heliport/Vertiport.

43 (1) Primary Zone Limitation: This primary zone height
44 limitation is described by a horizontal plane at the elevation of
45 the established elevation.

46 b. Approach Zone Definition: The Approach Zone begins at each
47 end of the Heliport/Vertiport Primary Zone with the same width as
48 the Primary Zone and extends outward and upward for a horizontal
49 distance of 4,000 feet where its width is 500 feet.

50 (1) Approach Zone Height Limitation: The Approach Zone height
51 limitation is a slope of 1 foot vertically for every 8 feet
52 horizontally.

53 c. Transitional Zone Definition: The Transitional Zone extends
54 outward and upward from the lateral boundaries of the Primary
55 Zone and from the Approach Zone for a distance of 250 feet

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1 measured horizontally from the centerline of the Primary and
2 Approach Zones.

3 (1) Transitional Zone Height Limitation: The Transitional Zone
4 has a height limitation at a slope of 1 foot vertically for every
5 2 feet horizontally.

6 H. Airspace Height Review Procedures. All new construction or
7 reconstruction which adds height to any land or building within
8 areas shown on the on "Airspace Notification Map" (incorporated
9 by reference and attached as Appendix 1) shall be reviewed for
10 compliance with the standards of this section.

11 1. General: No Tall Structure Permit will be issued if all FAA
12 and DOA comments are not addressed to the satisfaction of DOA,
13 PZB and County Attorney. No development permit application shall
14 be issued if the proposed construction or alteration is found to
15 violate the provisions of this Article, or exceed an obstruction
16 standard of F.A.R. Part 77 or any other applicable Federal or
17 State rules or regulations.

18 2. Tall Structure Review Required - DOA shall make a
19 determination if FAA notification is required, prior to
20 certification of an application by DRC or issuance of a building
21 permit for a permanent or temporary structure located within
22 Regulated Areas.

23 a. FAA Review. The DOA shall inform the applicant that prior
24 review by the FAA is required if DOA determines that the proposed
25 construction or alteration represented in the application may
26 exceed:
27 (1) The standards of Federal Aviation Regulations (F.A.R.) Part
28 77;
29 (2) The provisions of Section VI. F or G of this Article;
30 (3) Any other Federal or State rules and regulations; or
31 (4) Adversely affects the airspace surrounding any Airport
32 defined herein.

33 The FAA must review and issue a determination of the proposal's
34 effect on navigable airspace where such prior notification under
35 Title 14, CFR, Part 77 is required. PZB shall suspend any review
36 of any development permit application process until FAA findings
37 of aeronautical affect are approved.

38 b. Responsibility of the Applicant. The Applicant shall:

39 (1) Obtain FAA Form 7460-1 from the DOA and mail the completed
40 form to Federal Aviation Administration Southern Regional Office,
41 Attn: ASO-532, Systems Management Branch, P. O. Box 20636,
42 Atlanta, GA 30320.

43 (2) Bring in person or forward by Certified Mail (Return
44 Receipt Requested) to the DOA, the FAA's findings of aeronautical
45 affect, along with a copy of the completed original FAA Form
46 7460-1.

47 (3) Structure(s) Not Exceeding Obstruction Standards or Other
48 Provisions: DOA shall review the FAA's determination issued in
49 response to the applicant's FAA Form 7460-1. If DOA determines
50 that the proposed construction or alteration does not exceed the
51 height limitations in this section, the DOA shall notify the
52 applicant in writing that the proposed structure may be erected
53 in accordance with permitting requirements of PZ&B. PZB may
54 certify the development application or issue a building permit,

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1 as applicable.

2 (4) Structure(s) Exceeding Obstruction Standards or Other
3 Provisions. DOA shall review the FAA's determination issued in
4 response to the applicant's FAA Form 7460-1. If DOA determines
5 the proposed construction exceeds the height limitations outlined
6 in this section, then the DOA shall notice the applicant. The
7 notice shall state the reasons for denial and inform the
8 applicant that they may apply for a variance pursuant to Section
9 VIII of this Article and Section 5.7 of this Code, to allow
10 deviations from the standards of this Section.

11 If an application for a variance is submitted, DOA shall review
12 the application and provide a recommendation with or without
13 conditions to the Board of Adjustment, pursuant to Sec. 5.7.

14 If a variance is granted, DOA shall issue a Tall Structure Permit
15 prior to issuance of a subsequent development order.

16 (5) Zoning and Building Permit Requirement. If the Tall Structure
17 permit is approved, the applicant shall present a copy of the
18 Tall Structure Permit with all development order conditions to
19 PZ&B with an application for the next applicable development
20 order.

21 (6) Obstruction Marking and Lighting. The owner shall mark and
22 light the structure in accordance with the provisions of Chapter
23 333, Florida Statute; Rules of Florida Department of
24 Transportation, Chapter 14-60 and the FAA Advisory Circular
25 70/7460H., Obstruction Marking or Lighting, as may be amended
26 from time to time. The permit may be conditioned to require the
27 applicant to mark and light the structure, at applicant's own
28 expense, or to allow DOA to install, operate and maintain at its
29 own expense, such markers and lights as may be necessary to
30 indicate to pilots the presence of an airspace obstruction if
31 warranted.

32 (7) Building Permit Requirement. The applicant shall present a
33 copy of the Tall Structure Permit Application, along with all
34 Development Order comments and conditions, to the Building
35 Director in order that any conditions are adequately addressed
36 prior to the issuance of a building permit, including obstruction
37 lighting and marking conditions.

38 Section VII. Airport Land Use Regulations.

39 A. General. In order to carry out the provisions of this
40 Ordinance, there are hereby created and established certain zones
41 which include all the land lying beneath the Runway Protection
42 Zone (RPZ) and within Airport Land Use Noise Zone(s) (ALUNZ), as
43 they apply to a particular airport. All areas defined as the RPZ
44 and areas displayed as ALUNZ are subject to review and technical
45 analysis by DOA, PZ&B, and other applicable governmental agencies
46 in accordance with this article.

47 To regulate land uses within these zones, an Off-Airport Land Use
48 Compatibility Schedule (Appendix 8), maps and review procedures
49 have been established. The RPZ dimensions are defined in Table 1,
50 Sec. VI.E. The noise zones are depicted on the Airport Land Use
51 Noise Maps (Appendices 9 through 14).

52 B. Regulated Land Use. Notwithstanding any other provisions of
53 this Article, no use may be made of land or water within the RPZ
54 in such manner as to interfere with the operation of an airborne

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1 aircraft. The Off-Airport Land Use Compatibility Schedule
2 (Appendix 8) shall be used to determine additional land
3 development requirements for uses identified in Article 6.4.
4 Those activities and land uses not specifically listed in the
5 Airport Land Use Compatibility Schedule are permitted or
6 restricted based on their similarity to noise tolerance and
7 compatibility with normal airport operations as exhibited by the
8 activities and land uses which are listed in the Schedule.

9 1. Construction, defined. For purposes of this section,
10 construction includes but is not limited to creating new
11 structures, making alterations or repairs and additions to any
12 existing building or structure, or moving or relocating a
13 building(s) or structure(s) within a Regulated Area. Construction
14 does not include paving, drainage or similar types of
15 construction.

16 C. Regulated Areas. To regulate land uses within the RPZ and
17 ALUNZ, and Off-Airport Land Use Compatibility Schedule, maps and
18 review procedures have been established. Only the portion of the
19 lot falling within the RPZ or ALUNZ shall be subject to the
20 provisions of this Article. The Off-Airport Land Use
21 Compatibility Schedule shall be used to determine compatibility
22 of land use with airport operations within these zones.

23 1. Runway Protection Zone (RPZ): The RPZ includes all land lying
24 beneath the defined RPZ, as shown on the applicable Airport
25 Zoning Maps, in Appendices 2 through 7, for all airports in Palm
26 Beach County.

27 2. Airport Land Use Noise Zones (ALUNZ). The ALUNZ include all
28 land area lying within the defined ALUNZ as shown on the
29 applicable Airport Land Use Zone Maps, in Appendices 9 through
30 14, for all airports in Palm Beach County

31 D. Airport Land Use Noise Zone(s) Established. All land uses
32 shall be permitted within ALUNZ as provided in the Off-Airport
33 Land Use Compatibility Schedule, Appendix 8.

34 1. Airport Land Use Noise Zones for Airports which have
35 Completed FAR Part 150 Noise and Land Use Compatibility Studies.
36 Several Palm Beach County airports have completed a noise study
37 in accordance with 14 CFR Part 150. Land uses within the area
38 contiguous to these airports, within an area defined as the outer
39 noise contour, or equivalent thereof shall be consistent with the
40 type of use listed in Airport Land Use Compatibility Schedule.

41 a. Palm Beach International Airport (PBIA). The Palm Beach
42 International ALUNZ has been established and is incorporated
43 herein as Appendix 9. This Zone is created based on yearly
44 averaged, 24-hour day/night average noise level projections
45 arising from aircraft flight operations at PBIA.

46 (1) Palm Beach International Airport Land Use Noise Zone
47 (ALUNZ) Defined. That area commencing at the outermost boundary
48 of the airport and extending outward therefrom to a boundary
49 indicated on the Palm Beach International Airport Land Use Noise
50 Zone Map. The boundary of the zone extends approximately ½
51 nautical mile beyond the projected yearly averaged, 24-hour
52 day/night average noise level contour of 65 L_{dn}.

53 b. Boca Raton Airport - The Boca Raton ALUNZ has been
54 established and is incorporated herein as Appendix 10. This Zone
55 is created based on projections of aircraft flight operations at

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- 1 Boca Raton Airport.
- 2 (1) Boca Raton Airport Land Use Noise Zone (ALUNZ) Defined.
3 That area commencing at the outermost boundary of the airport and
4 extending outward therefrom to a boundary indicated on the Boca
5 Raton Airport Land Use Noise Zone Map. The outer boundary of the
6 zone approximates a projected yearly averaged, 24-hour day/night
7 average noise level contour of 60 L_{dn} or greater.
- 8 2. ALUNZs for Airports which have not Completed an FAR Part 150
9 Noise and Land Use Compatibility Study - An overlay Land Use
10 Noise Zone has been established for the civil airports which have
11 not completed an FAR Part 150 Noise and Land Use Compatibility
12 Study. This Zone is created as an area beneath the standard VFR
13 traffic pattern and buffer airspace established in FAA Order
14 7400.2D, "Procedures for Handling Airspace Matters", which
15 underlies the majority of recurring aircraft flight paths. Land
16 Uses within this zone may be subject to aircraft noise that may
17 be considered objectionable.
- 18 a. Land Use Noise Zone(s) Defined for Palm Beach County Park
19 Airport (Lantana), Palm Beach County Glades Airport (Pahokee),
20 Belle Glade Municipal Airport, and Palm Beach North County
21 Airport. Land Use Noise Zones for these airports is established
22 as the land lying within parallel lines nine thousand (9,108)
23 feet in both directions from the approach and departure end of
24 each runway, the runway centerline, and all airspace in between.
25 These zones are established and attached as Appendices 11 through
26 14.
- 27 E. General Land Use Regulations - Off-Airport Land Use
28 Compatibility Schedule (Appendix 8).
- 29 1. The Off-Airport Land Use Compatibility Schedule, Appendix 8:
30 lists land uses as defined below:
- 31 a. Land Uses Compatible Without Restriction: Uses noted with a
32 "P" may develop pursuant to the development review procedures
33 in the Use Regulation Schedule in Section 6.4. and Article 5
34 and are not required to comply with the conditional
35 requirements set forth in Appendix 8.
- 36 b. Land Uses Qualified As Compatible Only If In Compliance With
37 Conditional Requirements: Uses noted with a "O" may develop
38 pursuant to the development review procedures in the Use
39 Regulation Schedule in Section 6.4 and Article 5, if
40 regulated and constructed in accordance with the conditional
41 notes in Appendix 8. Application for a variance from the
42 conditional requirements may be made to the Board of
43 Adjustment in accordance with the requirements in Sec. 5.7.
- 44 c. Incompatible Land Uses: Uses notes as an "N" are considered
45 to be incompatible in the Airport Zone. These uses shall not
46 be allowed in the Runway Protect Zone (RPZ) . Uses within the
47 Airport Noise Land Use Zone shall require variance approval
48 pursuant Section VIII herein and Section 5.7 and shall be
49 subject to the development review procedures in the Use
50 Regulation Schedule in Section 6.4 and Article 5 prior to
51 establishment of the use.
- 52 2. Prohibited Land Uses.
- 53 a. In no case shall an educational facility or a public or
54 private school be permitted at either end of a runway within

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- 1 an area that extends 5 statute miles in a direct line along
2 the centerline of the runway and which has a width of ½ the
3 length of the runway.
- 4 b. In no case shall new residential construction be permitted
5 within an area contiguous to the airport measuring ½ the
6 length of the longest runway on either side of and at the end
7 of each runway centerline unless it meets the conditional
8 notes in the Airport Land Use Compatibility Schedule -
9 Appendix 8. This area is shown as the "New Residential
10 Construction Limit" on Appendices 10-14.
- 11 (1) Exemption. Land uses within regulated areas defined in
12 Section VII, D.1.a.&b., (Airports which have completed FAR
13 Part 150 Noise and Land Use Compatibility Studies), "Palm
14 Beach International Airport and Boca Raton Airport Land Use
15 Noise Zone Defined" and which meet the standards set forth
16 herein.
- 17 3. Additional Regulations - In addition to the requirements
18 contained in the Schedule (Appendix 8), all uses within
19 regulated areas shall comply with the following provisions.
- 20 a. Lights and Illuminations: All lights or illumination used in
21 conjunction with streets, parking, signs or use of land and
22 structures shall be arranged and operated in such manner that
23 is not misleading or dangerous to aircraft operating from or
24 to a public airport or in vicinity thereof.
- 25 b. Electronic Devices: No application, use, or operations of any
26 type shall produce electronic interference with navigation
27 signals or radio communication between aircraft; the airport
28 tower, or other air traffic control facility.
- 29 c. Obscuration: No operations of any type shall produce smoke,
30 glare or other obscuration within three (3) statute miles of
31 any usable runway of a public airport.
- 32 d. Bird Concentrations: No use of any type shall be permitted
33 that attract or sustain hazardous bird movements, feeding,
34 water, or roosting areas into or across an airport's runways'
35 approach and departure pattern.
- 36 e. Noise Level Reduction (NLR) Requirements: If a proposed land
37 use within an Airport Land Use Noise Zone is designated
38 generally compatible (G), or incompatible (N), then measures
39 to achieve 30 dB NLR shall be incorporated into the regulated
40 use.
- 41 (1) Exemptions. Land Uses within regulated areas defined in
42 Section VII, D.2.(a), "Airport Land Use Noise Zones for
43 Airports Which Have Not Completed an FAR Part 150 Noise and
44 Land Use Compatibility Study".
- 45 (2) Use and Occupancy. Buildings or structures supporting a
46 legal use(s) which existed prior to (the effective date of
47 this Article), may continue to support the existing use or
48 occupancy provided such continued use does not jeopardize
49 life or health.
- 50 (3) Relocated Buildings - Buildings or structures moved into a
51 RPZ or ALUNZ shall comply with the height and noise level
52 reduction provisions of this Article, as applicable.

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- 1 (4) Proposed or Newly Constructed Buildings - Valid permits to
2 construct a building, submitted to the Building Division of
3 PZ&B prior to (the effective date of this Article), shall
4 not be required to comply with the provisions of Article
5 18, as long as the building permit has not been amended or
6 expired.
- 7 (5) Design Requirements - The NLR requirements of the Off-
8 Airport Land Use Compatibility Schedule at Appendix 8, may
9 be achieved by any suitable combination of building design,
10 choice of building materials and construction techniques in
11 accordance with established architectural and acoustical
12 principles as contained in DOT document DOT/FAA/PP-92-5,
13 Guidelines for the Sound Insulation of Residences Exposed
14 to Aircraft Operations. This document is on file at the
15 offices of the DOA and PZB. The reduction requirements
16 shall apply to all occupied rooms having one or more
17 exterior walls or ceilings, when furnished in accordance
18 with the intended final usage of the room.
- 19 f. Disclosure. The owner of any new building or structure or any
20 existing building or structure which is substantially
21 repaired, reconstructed or altered, as provided in Sec.
22 1.12.D, proposed to be located within regulated areas shall
23 provide disclosure to all prospective purchasers or tenants
24 of such building or structure that the building or structure
25 is located within the Land Use Compatibility Noise Zone and
26 that aircraft noise may be objectional.
- 27 F. Review Procedure for Airport Land Use Noise Zones. All new
28 construction or reconstruction for temporary or permanent
29 structures within ALUNZ shall be reviewed for compliance with
30 the standards of this Section. Prior to acceptance of a
31 development order or issuance of a building permit, the DOA
32 and PZ&B shall review the application for compliance with
33 this Article.
- 34 Section VIII. Variances. Application for a variance may be
35 submitted to erect or increase the height of any structures, or
36 to use property which does not comply with the regulations
37 prescribed in this Article, to the Palm Beach County Board of
38 Adjustment pursuant to the procedures and standards set forth in
39 Section 5.7.
- 40 Section IX. Nonconforming Uses. Uses nonconforming to the Airport
41 Zoning Regulations shall be administered in accordance with
42 Section 1.12.
- 43 Section X. Administration
- 44 A. PZB, in consultation with the DOA, shall administer the
45 review of development applications for compliance with this
46 Article within the territorial limits over which Palm Beach
47 County has jurisdiction. DOA by Interlocal Agreement with any
48 jurisdiction which has permitting authority shall administer
49 the review of development applications for compliance with
50 this Article within the territorial limits of the
51 municipality. If a Tall Structure Permit is required, then
52 the DOA shall administer review with the FAA. Fees shall be
53 established by the DOA and PZB to administer this Ordinance.
- 54 B. In the event that any violation of the requirements of
55 Article 18 are found, the Director Code Enforcement shall
56 give written notice to the property owner. Such notice shall
57 indicate the nature of the violation and the necessary action

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1 to correct or abate the violation. A copy of said notice
2 shall be sent to the Code Enforcement Board and Palm Beach
3 County DOA. PZB shall require work to stop and may take any
4 or all other action necessary to correct violations and
5 obtain compliance with all the provisions of this Section.

6 C. The DOA shall notify the Executive Director of PZB of all
7 amendments to the airport master plan(s), or other
8 regulations that effect the definitions or height limitations
9 of the zones established herein.

10 **Section XI. Enforcement.**

11 **A. Non-compliance.** Failure to comply with the requirements of
12 this Section or any permit or approval granted or authorized
13 hereunder shall constitute a violation of this code. PZB or
14 DOA may issue a Cease and Desist Order or withhold a
15 Certificate of Occupancy until the provisions of this Section
16 have been met. Palm Beach County may subject the owner of the
17 premises to the violation and enforcement provisions in
18 Chapter 333.07, Fla. Stat., 1995, as amended, seek injunctive
19 relief, pursuant to Chapter 333.13, (2) Florida Statutes, as
20 may be amended from time to time, in order to fully
21 effectuate the purposes of this Ordinance. Each violation of
22 this Ordinance or of any regulation, order or ruling
23 promulgated herein shall be considered a separate offense and
24 enforced in accordance with the provisions of Article 14 of
25 this code.

26 **Section XII. Appeals.**

27 Any person aggrieved by the decision of PZB or the DOA made in
28 the administration of this Article may appeal the decision to the
29 Board of Adjustment in accordance with the provisions of Article
30 5.7 of this Code.

31 **PART 2. Repeal of Palm Beach County Ordinance 78-2.**

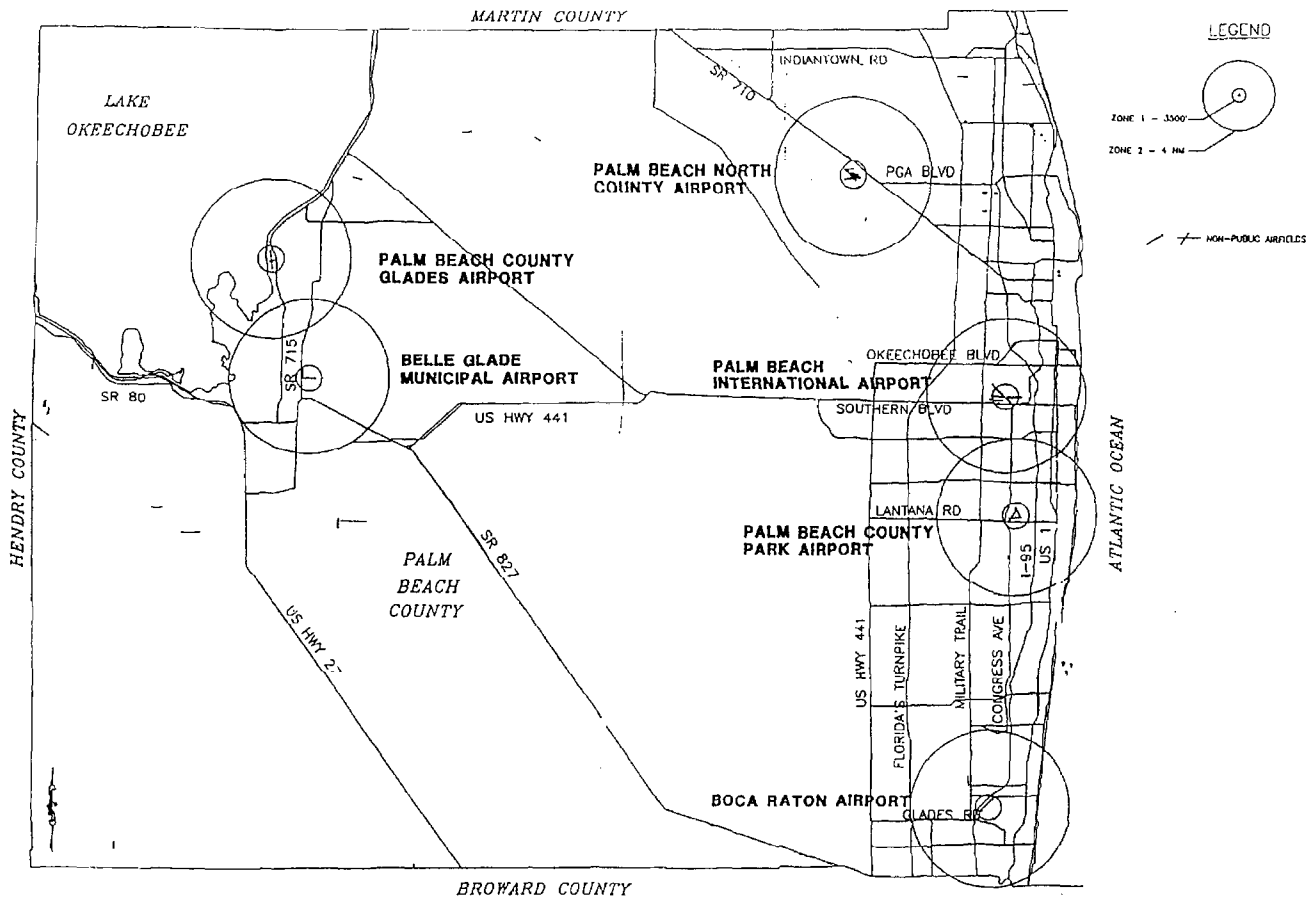
32 Palm Beach County Ordinance 78-2 of this Code is hereby repealed.

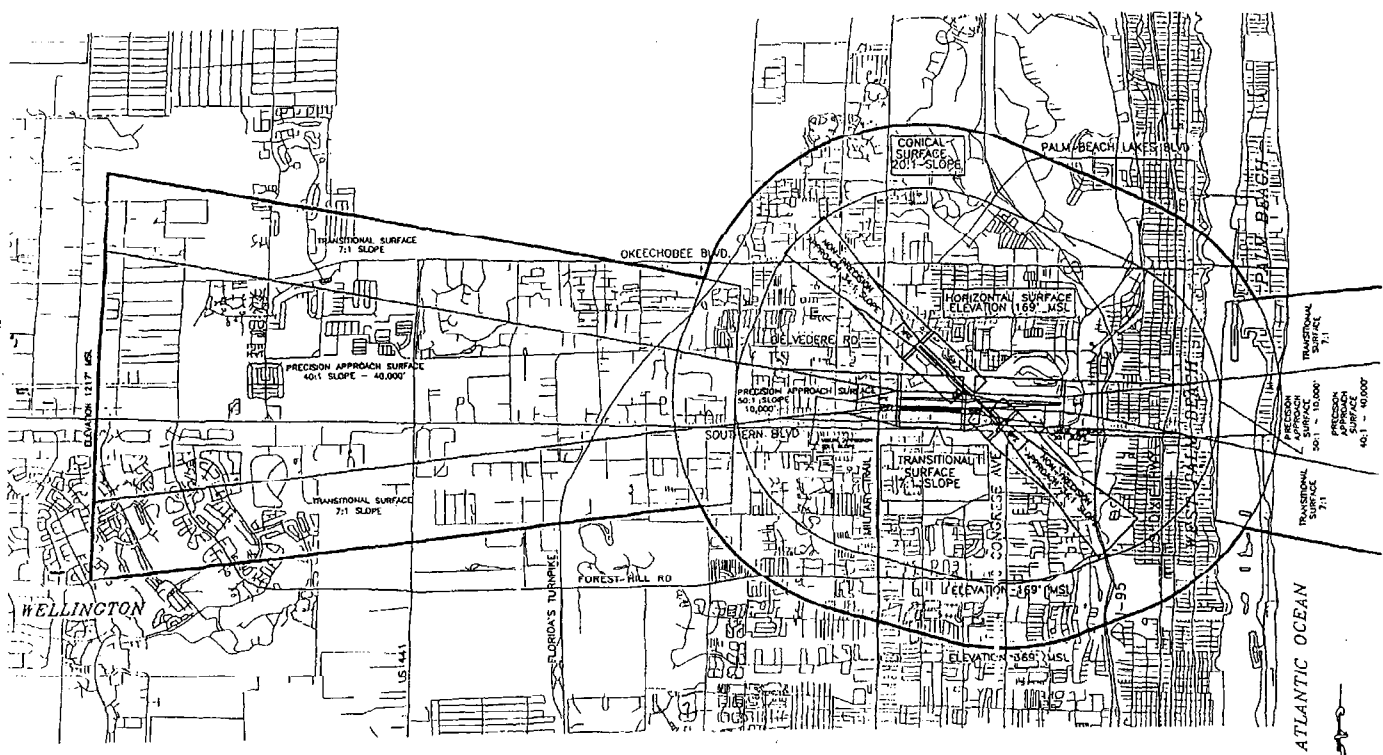
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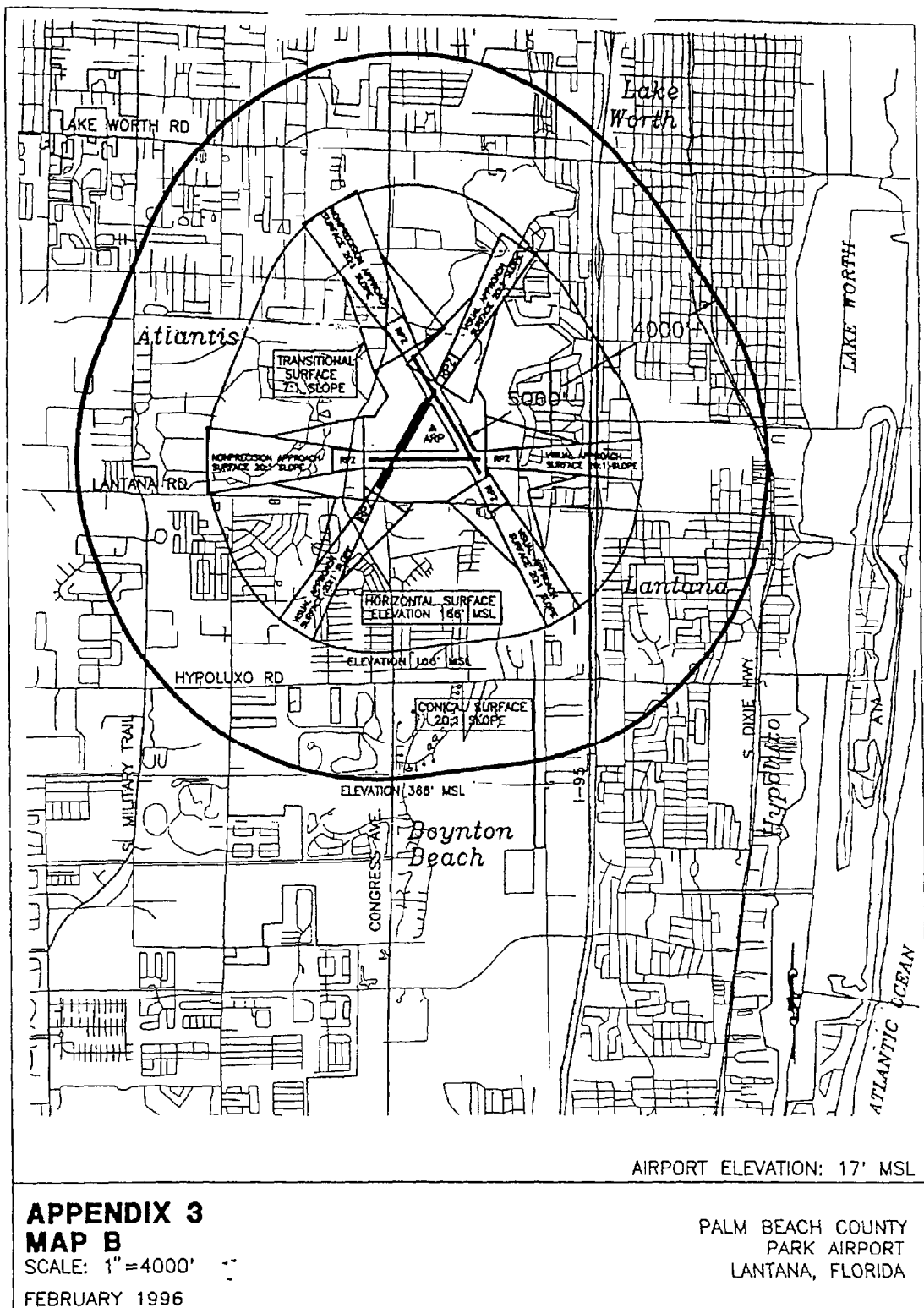
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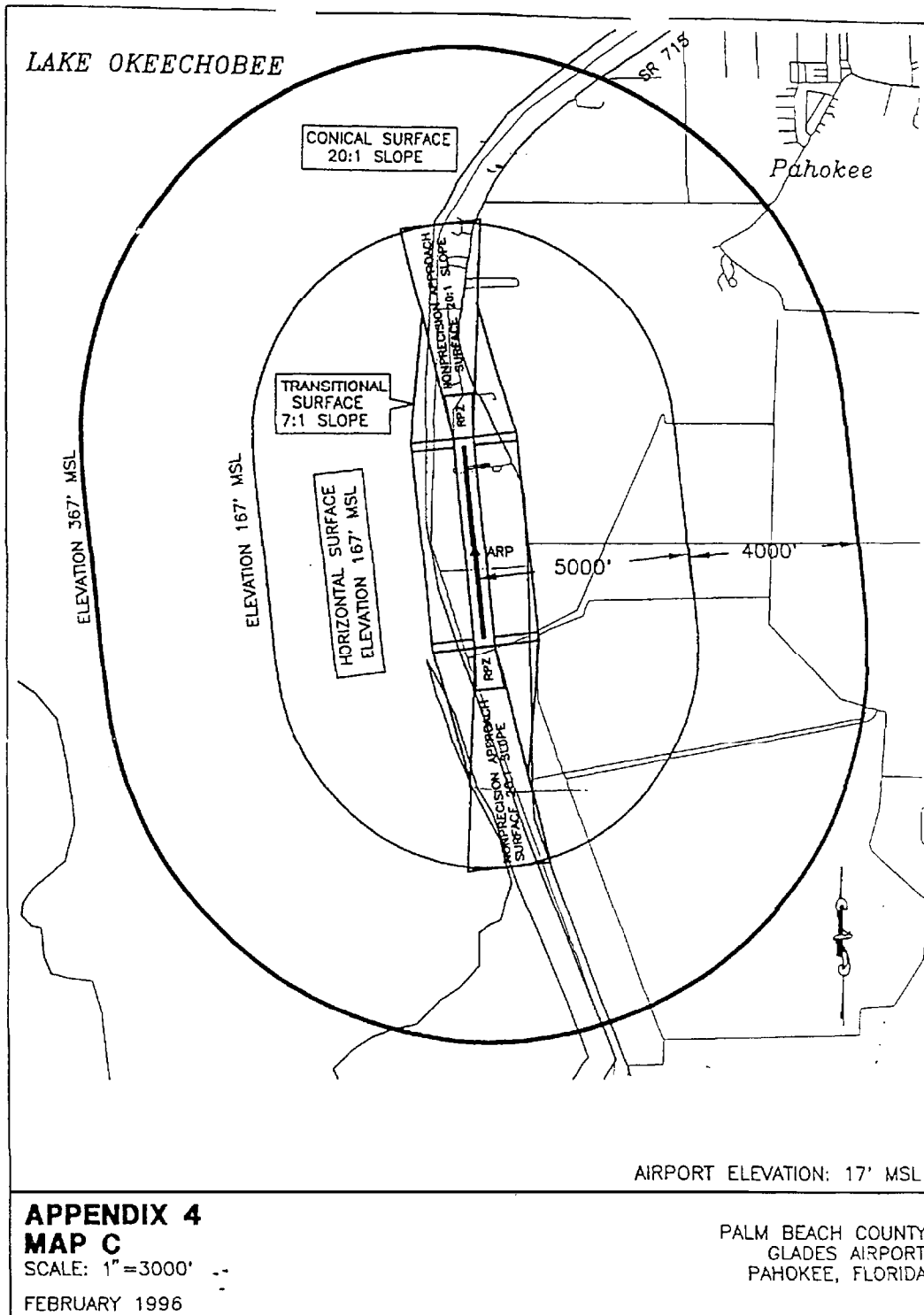
1	<u>AIRPORT ZONING REGULATIONS</u>
2	<u>APPENDIX 1 THROUGH 15</u>
3	<u>Appendix 1 AIRSPACE NOTIFICATION MAP</u>
4	<u>Appendix 2 MAP A - PALM BEACH INTERNATIONAL AIRPORT</u>
5	<u>Appendix 3 MAP B - PALM BEACH COUNTY PARK AIRPORT</u>
6	<u>Appendix 4 MAP C - PALM BEACH COUNTY GLADES AIRPORT</u>
7	<u>Appendix 5 MAP D - BELLE GLADE MUNICIPAL AIRPORT</u>
8	<u>Appendix 6 MAP E - PALM BEACH NORTH COUNTY AIRPORT</u>
9	<u>Appendix 7 MAP F - BOCA RATON AIRPORT</u>
10	<u>Appendix 8 THE OFF-AIRPORT LAND USE COMPATIBILITY SCHEDULE</u>
11	<u>Appendix 9 AIRPORT LAND USE NOISE ZONE - PALM BEACH</u>
12	<u>INTERNATIONAL AIRPORT</u>
13	<u>Appendix 10 AIRPORT LAND USE NOISE ZONE - BOCA RATON AIRPORT</u>
14	<u>Appendix 11 AIRPORT LAND USE NOISE ZONE - PALM BEACH COUNTY PARK</u>
15	<u>Appendix 12 AIRPORT LAND USE NOISE ZONE - PALM BEACH COUNTY</u>
16	<u>GLADES AIRPORT</u>
17	<u>Appendix 13 AIRPORT LAND USE NOISE ZONE - BELLE GLADE MUNICIPAL</u>
18	<u>AIRPORT</u>
19	<u>Appendix 14 AIRPORT LAND USE NOISE ZONE - PALM BEACH NORTH</u>
20	<u>COUNTY AIRPORT</u>
21	<u>Appendix 15 ISOMETRIC VIEW OF AIRPORT HEIGHT ZONES AND IMAGINARY</u>
22	<u>SURFACES</u>

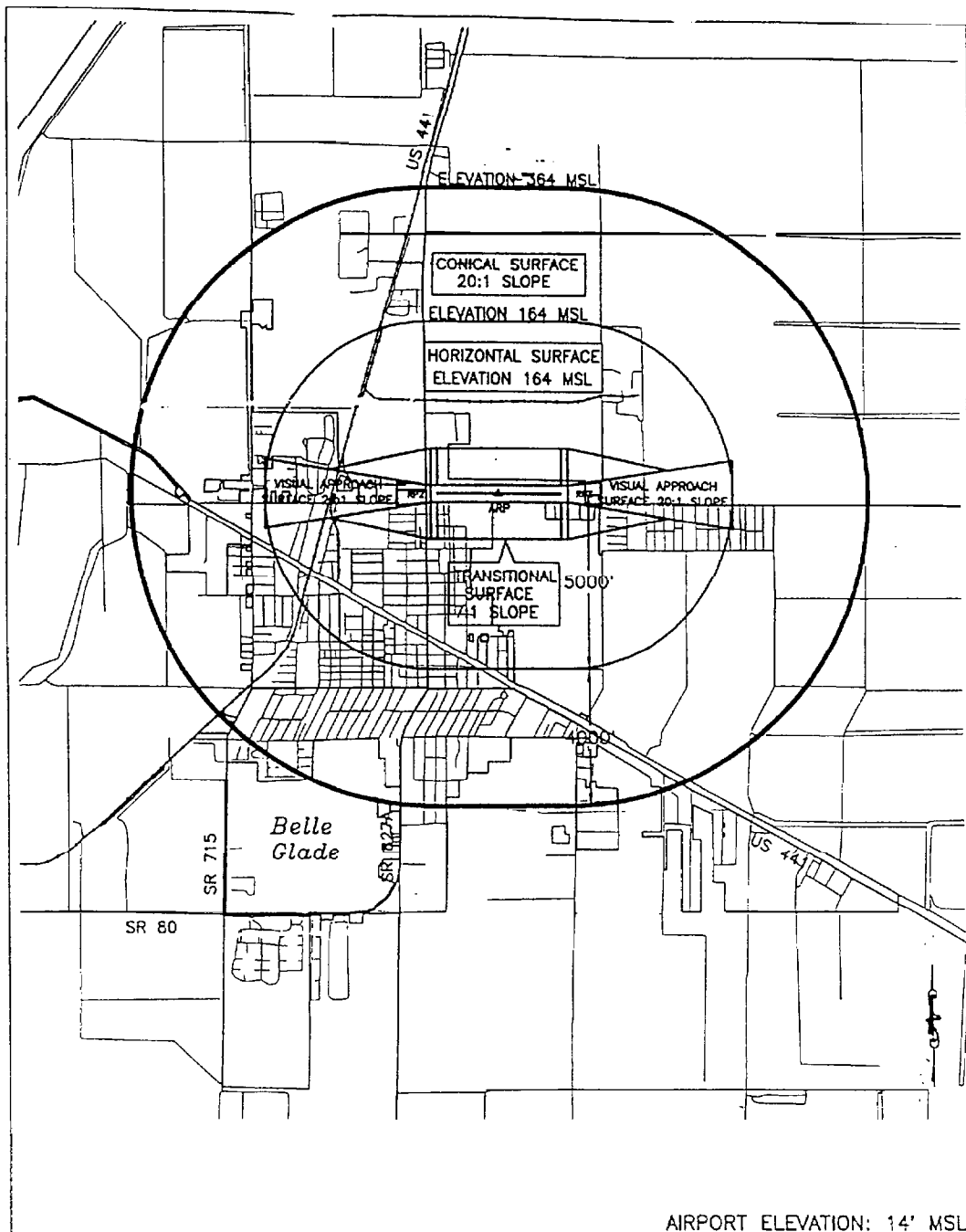




AIRPORT ELEVATION: 19' MSL







AIRPORT ELEVATION: 14' MSL

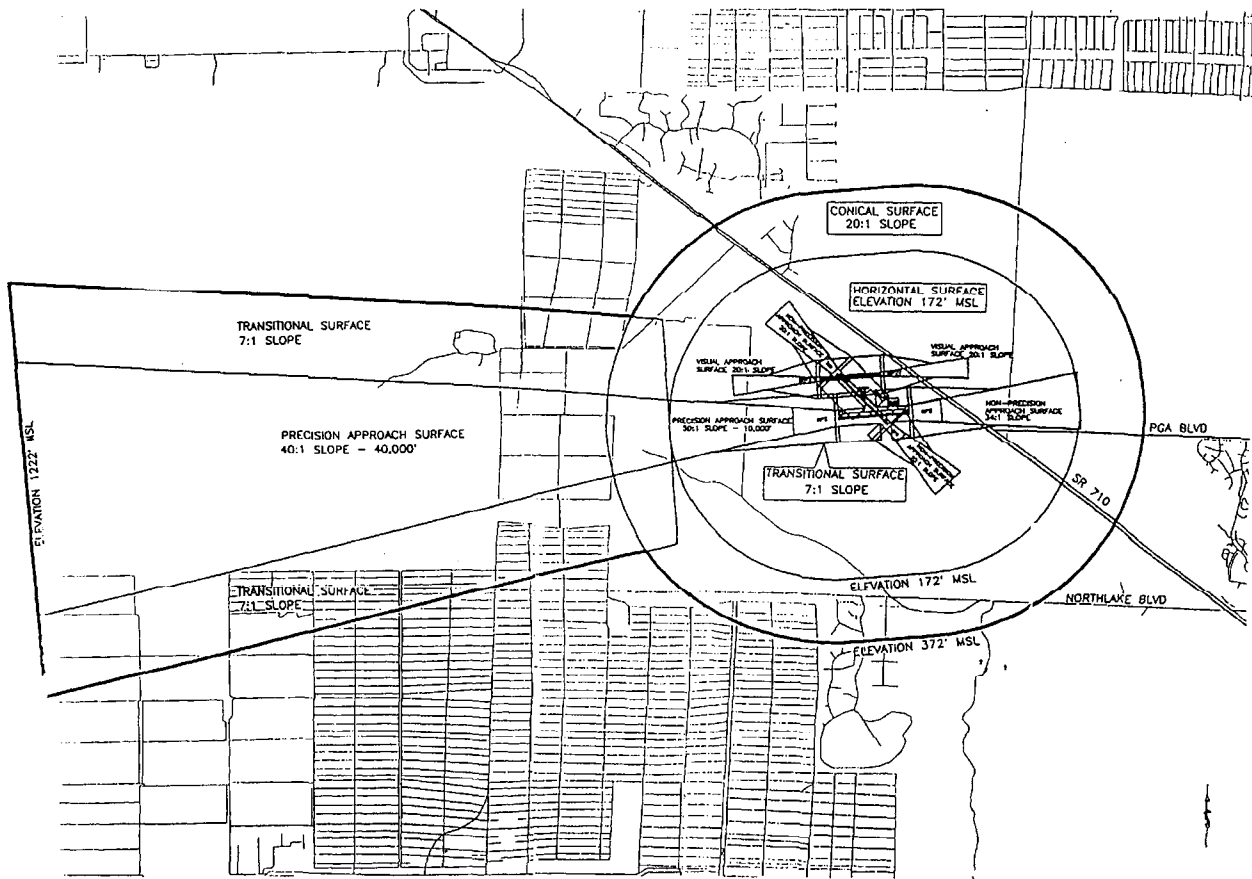
APPENDIX 5

MAP D

SCALE: 1"=4000'

FEBRUARY 1996

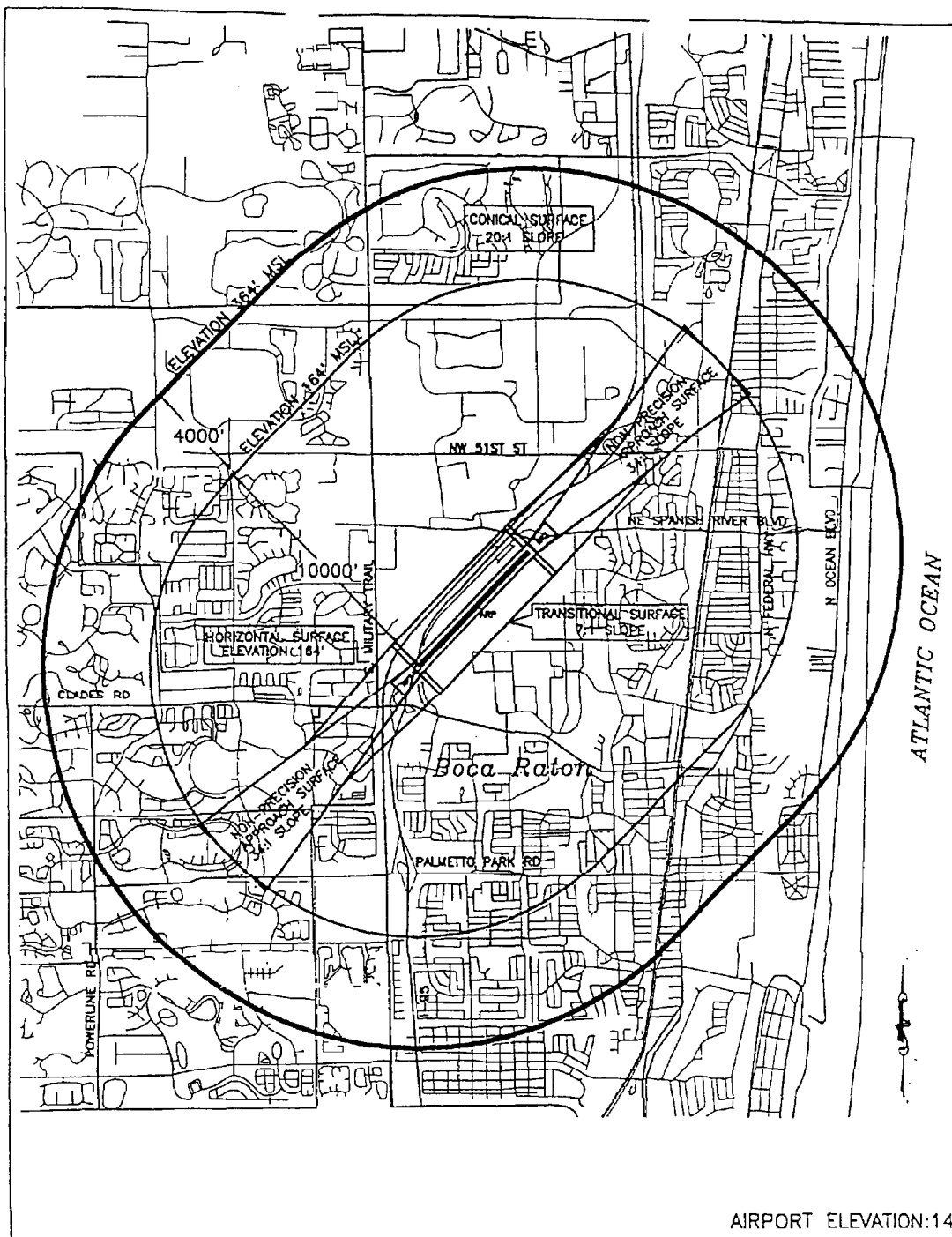
BELLE GLADE
MUNICIPAL AIRPORT
BELLE GLADE, FLORIDA



PALM BEACH NORTH COUNTY AIRPORT
PALM BEACH GARDENS, FLORIDA

237

APPENDIX 6
MAP E
SCALE: 1" = 6000'



AIRPORT ELEVATION: 14'

APPENDIX 7

MAP F

SCALE: 1" = 5000'

FEBRUARY 1996

BOCA RATON AIRPORT
BOCA RATON, FLORIDA

THE OFF-AIRPORT LAND USE COMPATIBILITY SCHEDULE APPENDIX 8

TYPE OF USE	AIRPORT NOISE LAND USE ZONE		AIRPORT HAZARD AREA	
	COMPATIBILITY	CONDITIONAL NOTES	RPZ (RUNWAY PROTECTION ZONE)	CONDITIONAL NOTES
Single-family	Q	15	N	1,4
Zero lot line home	Q	15	N	1,4
Townhouse	Q	15	N	1,4
Multi-family	Q	15	N	1,4
Mobile home dwelling	Q	15	N	1,4
Accessory dwelling	Q	15	N	1,4
Congregate living facility, Type 1	Q	15	N	1,4
Congregate living facility, Type 2	Q	15	N	2,4
Congregate living facility, Type 3	Q	15	N	2,4
Estate kitchen				
Farm residence	Q	15	N	1,4
Farm tenant quarters	Q	15	N	1,4
Garage sale	P		Q	2,4
Grooms quarters				
Guest cottage				
Home occupation	Q	15	N	1,3,4,6
Migrant farm labor quarters	Q	15	N	2,4
Nursing or convalescent facility	Q	15	N	2,3,4,6
Security or caretaker quarters	Q	15	N	1,3,4,6

KEY:

P = Permitted - Land Use compatible; not subject to conditional requirements.
 Q = Qualified - Land Use compatible only if use complies with conditional notes. Application for a variance to deviate from the conditional notes may be considered by Board of Adjustment in accordance with Sec. 5.7 unless the site is located in the RPZ.
 N = Not Compatible - Land Use not compatible; Use not permitted. Application for a variance to permit the use within regulated areas within an airport zone may be considered by Board of Adjustment in accordance with Sec. 5.7 unless located in the RPZ.

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Second Reading

September 16, 1996

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26
TYPE OF USE		AIRPORT NOISE LAND USE ZONE		AIRPORT HAZARD AREA																					
AGRICULTURAL USES		COMPATIBILITY	CONDITIONAL NOTES	RPZ (RUNWAY PROTECTION ZONE)	CONDITIONAL NOTES																				
Agricultural research/development		P		Q	2, 3, 4, 5, 6																				
Agricultural sales and service		P		Q	2, 3, 4, 6																				
Agricultural transshipment		P		Q	2, 4, 8																				
Agriculture, bona fide		P		Q	5, 6																				
Aviculture																									
Community vegetable garden																									
Equestrian arena, commercial		P		N	2, 4, 7																				
Groves/ row crops																									
Kennel, commercial		Q	15	Q	2, 4																				
Kennel, private		Q	15	Q	2, 4																				
Livestock raising																									
Nursery, retail																									
Nursery, wholesale																									
Packing plant																									
Potting soil manufacturing		P		Q	2, 3, 4, 5, 6																				
Shadehouse, accessory																									
Stable, commercial		P		Q	2, 3, 4, 7																				
Stable, private		P		Q	4, 7																				
Stand for the sale of agricultural products		P		Q	2, 4, 5																				
Storage, indoor agricultural																									
Storage, outdoor agricultural																									
Sugar mill or refinery		P		Q	2, 3, 4, 6																				

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TYPE OF USE	AIRPORT NOISE LAND USE ZONE		AIRPORT HAZARD AREA	
	COMPATIBILITY	CONDITIONAL NOTES	RPZ (RUNWAY PROTECTION ZONE)	CONDITIONAL NOTES
Airplane landing strip, accessory	P		N	3
Airport	P		N	2, 4, 8
Assembly, nonprofit institutional	Q	15	N	2, 4
Assembly, nonprofit membership	Q	15	N	2, 4
Cemetery	P		P	
Church or place of worship	Q	15	N	2, 4
College or university	Q	15	N	2, 4, 14
Day care center, general	Q	15	N	2, 4, 14
Day care center, limited	Q	15	N	2, 4, 14
Government services	Q	15	Q	2, 3, 4, 5, 6
Helipad or heliport	P		N	2, 3, 4, 6
Hospital or medical center	Q	15	N	2, 3, 4, 6, 9
Park, public	Q	15	N	2, 3, 4, 5, 7
School, elementary or secondary	Q	14, 15	N	2, 4, 14
Transportation facility	P		Q	2, 3, 4, 8

KEY:

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N = Not Compatible - Land Use not compatible; Use not permitted. Application for a variance to permit the use within regulated areas within an airport zone may be considered by Board of Adjustment in accordance with Sec. 5.7 unless located in the RPZ.

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September 16, 1996

TYPE OF USE	AIRPORT NOISE LAND USE ZONE		AIRPORT HAZARD AREA	
	COMPATIBILITY	CONDITIONAL NOTES	RPZ (RUNWAY PROTECTION ZONE)	CONDITIONAL NOTES
Air curtain incinerator, permanent	P		N	2, 3, 4, 5, 6
Air curtain incinerator, temporary	P		N	2, 3, 4, 5, 6
Chipping and mulching	P		Q	2, 3, 4, 6
Communication tower, commercial	P		Q	2, 3, 4, 9
Composting facility	P		Q	2, 3, 4, 5, 6, 13
Electrical power facility	P		Q	2, 3, 4, 6, 9
Incinerator	P		N	2, 3, 4, 5, 6
Recycling center	P		Q	2, 3, 4, 5, 6, 13
Recycling collection station	P		Q	2, 4, 5
Recycling drop off bin	P		Q	2, 3, 4, 6
Recycling plant	P		N	2, 4, 5, 6, 13
Sanitary landfill	P		N	2, 3, 4, 13
Solid waste transfer station	P		N	2, 3, 4, 5, 6, 13
Utility, minor	P		Q	2, 3, 4, 6, 9
Water or wastewater treatment plant	P		N	2, 4, 10, 11

KEY:

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Q = Qualified - Land Use compatible only if use complies with conditional notes. Application for a variance to deviate from the conditional notes may be considered by Board of Adjustment in accordance with Sec. 5.7 unless the site is located in the RPZ.
N = Not Compatible - Land Use not compatible; Use not permitted. Application for a variance to permit the use within regulated areas within an airport zone may be considered by Board of Adjustment in accordance with Sec. 5.7 unless located in the RPZ.

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September 16, 1996

TYPE OF USE	AIRPORT NOISE LAND USE ZONE		AIRPORT HAZARD AREA	
	COMPATIBILITY	CONDITIONAL NOTES	RPZ (RUNWAY PROTECTION ZONE)	CONDITIONAL NOTES
Amusements, temporary or Special events	P		N	2, 3, 4, 6, 7
Arena, auditorium or stadium	Q	15	N	2, 4, 7
Campground	P		N	2, 4, 5, 6
Entertainment, indoor	Q	15	N	2, 3, 4, 6, 7
Entertainment, outdoor	N		N	2, 3, 4, 6, 7
Fitness center	P		Q	2, 3, 4, 7
Golf course	Q	15	Q	2, 3, 4, 5, 7
Gun club, enclosed	P		Q	2, 3, 4, 6, 7
Gun club, open	P		Q	2, 3, 4, 6, 7
Gun range, private	P		Q	2, 3, 4
Marine facility	P		Q	2, 3, 4, 7
Park, passive	P		Q	2, 3, 4, 5, 6
Zoo	P		N	2, 3, 4, 5, 7

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Second Reading

September 16, 1996

1	TYPE OF USE	AIRPORT NOISE LAND USE ZONE		AIRPORT HAZARD AREA	
2	COMMERCIAL USES	COMPATIBILITY	CONDITIONAL NOTES	RPZ (RUNWAY PROTECTION ZONE)	CONDITIONAL NOTES
3	Adult entertainment	P		N	2, 4
4	Auction, enclosed	Q	15	N	2, 4
5	Auction, outdoor	Q	16	Q	2, 4
6	Automotive paint or body shop	P		Q	2, 3, 4, 6
7	Automotive service station	P		N	2, 4, 5
8	Bed and Breakfast	N		N	2, 3, 4, 6
9	Broadcasting studio	Q	15	Q	2, 4, 9
10	Building supplies, retail	P		N	2, 3, 4
11	Building supplies, wholesale	P		Q	2, 3, 4
12	Car wash and auto detailing	P		Q	2, 3, 4, 6
13	Contractor's storage yard	P		Q	2, 3, 4, 6
14	Convenience store, no gas sales	Q	15	Q	2, 4
15	Convenience store with gas sales	Q	15	N	2, 4
16	Day labor employment service	Q	15	N	2, 4
17	Dispatching office	Q	15	N	2, 4, 6, 9
18	Financial institution	Q	15	N	2, 4
19	Flea market, enclosed	P		N	2, 4
20	Flea market, open	P		Q	2, 3, 4
21	Fruit and vegetable market	P		Q	2, 4
22	Funeral home or crematory	Q	15	Q	2, 4, 6
23	Gas and fuel, wholesale	P		Q	2, 3, 4
24	Hotel, motel, SRO, Boarding & Rooming House	Q	15	N	2, 4, 6, 9
25	Landscape maintenance services	P		Q	2, 3, 4, 6
26	Laundry services	Q	15	Q	2, 4, 6
27	Lounge, cocktail	Q	15	Q	2, 4
28	Medical office or dental clinic	Q	15	N	2, 4
29	Medical or dental laboratory	Q		N	2, 4
30	Monument sales, retail	P		Q	2, 4
31	Newsstand or gift shop	Q	15	Q	2, 4
32	Office, business or professional	Q	15	Q	2, 9
33	Parking garage, commercial	P		N	2, 4, 9, 12
34	Parking lot, commercial	P		Q	2, 4
35	Personal services	Q	15	Q	2, 4, 6
36	Printing and copying services	P		Q	2, 4
37	Repair and maintenance, general	P		Q	2, 4, 6
38	Repair services, limited	P		Q	2, 4, 6
39	Restaurant, fast food	P		N	2, 4, 5, 6
40	Restaurant, general	P		N	2, 4, 5, 6

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Second Reading

September 16, 1996

TYPE OF USE	AIRPORT NOISE LAND USE ZONE		AIRPORT HAZARD AREA	
	COMPATIBILITY	CONDITIONAL NOTES	RPZ (RUNWAY PROTECTION ZONE)	CONDITIONAL NOTES
Restaurant, specialty	P		N	2, 4, 5, 6
Retail sales, general	P		N	2, 4
Retail sales, mobile, temporary or transient	P		Q	2, 4
Self-service storage	P		Q	2, 3, 4, 6
Theater, drive-in	N		N	2, 4, 5, 6
Towing service and storage	P		N	2, 3, 4, 6
Upholstery shop	P		Q	2, 4
Vehicle inspection center	P		N	2, 3, 4, 6
Vehicle repair & related services, mobile minor				
Vehicle sales and rental	P		N	2, 3, 4
Veterinary clinic	P		Q	2, 4, 5, 6
Vocational school			N	2, 4, 5, 6
Wholesaling, general	P		Q	2, 3, 4

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Second Reading

September 16, 1996

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TYPE OF USE	AIRPORT NOISE LAND USE ZONE		AIRPORT HAZARD AREA	
	COMPATIBILITY	CONDITIONAL NOTES	RPZ (RUNWAY PROTECTION ZONE)	CONDITIONAL NOTES
Asphalt or concrete plant	P		N	2, 3, 4, 6
Data information processing	Q	15	Q	2, 4
Excavation, Type III	P		Q	4, 5, 6
Grain milling or processing	P		Q	2, 4, 5, 6
Heavy industry	P		N	2, 3, 4, 5, 6
Laboratory, industrial research	Q	15	N	2, 3, 4, 6
Machine or welding shop	P		N	2, 3, 4, 6
Manufacturing and processing	P		N	2, 3, 4, 6
Motion picture production studio	Q	15	Q	2, 6, 7
Pottery shop, custom	Q	15	Q	2, 4, 6
Salvage or junk yard	P		Q	2, 3, 4, 5, 6
Warehousing	P		Q	2, 3, 4, 6
Woodworking or cabinetmaking	P		Q	2, 4, 6

CONDITIONAL NOTES/RESTRICTIONS FOR USES LOCATED IN THE RPZ

- Density limited to 1-2 units per acre or 20% less lot coverage for Planned Unit Developments (PUDs).
- Population density limited to 40 people or less per acre at any time.
- No storage of hazardous or flammable materials on-site.
- No structures allowed to be located in the runway object free area of the RPZ.
- No bird attractions (certain crops, water bodies, garbage, etc).
- No emissions which would obstruct vision (light, dust, heat, burning, etc.)
- No spectator facilities, clubhouses, or locker rooms.
- Cargo freight only, no passenger terminals, transfer stations, etc.
- Height limits/communication interference subject to FAA rules.
- No above-ground transmission pipes.
- No outdoor sludge/settling ponds/land applications.
- Must be a freestanding structure.
- Sanitary landfills shall not be located within the following areas: (1) Within 10,000 feet from the nearest point of any runway used or planned to be used by turbojet or turboprop aircraft; (2) Within 5,000 feet from the nearest point of any runway used only by piston-type aircraft; (3) Outside the perimeters defined in (1) and (2) but still within the lateral limits of the civil airport imaginary surfaces defined in 14 C.F.R. part 77.25.
- An educational facility of a public or private school shall be

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Second Reading

September 16, 1996

- 1 prohibited in the following areas: At either end of a runway of a
2 publicly owned, public-use airport within an area which extends 5 miles
3 in a direct lines along the centerline of the runway, and which has a
4 width measuring one-half the length of the runway. Exceptions approving
5 construction of an educational facility within the delineated area shall
6 only be granted when the political subdivision administering the zoning
7 regulations makes specific findings detailing how the public policy
8 reasons for allowing the construction outweigh health and safety
9 concerns prohibiting such a location.
10
11 15. Design Requirements - The NLR requirements shall be achieved by any
12 suitable combination of building design, choice of building materials
13 and construction techniques in accordance with established architectural
14 and acoustical principles as contained in DOT document DOT/FAA/PP-92-5,
15 *Guidelines for the Sound Insulation of Residences Exposed to Aircraft*
16 *Operations*.
17
18 16. Land use is compatible provided special sound reinforcement systems are
19 installed.
20

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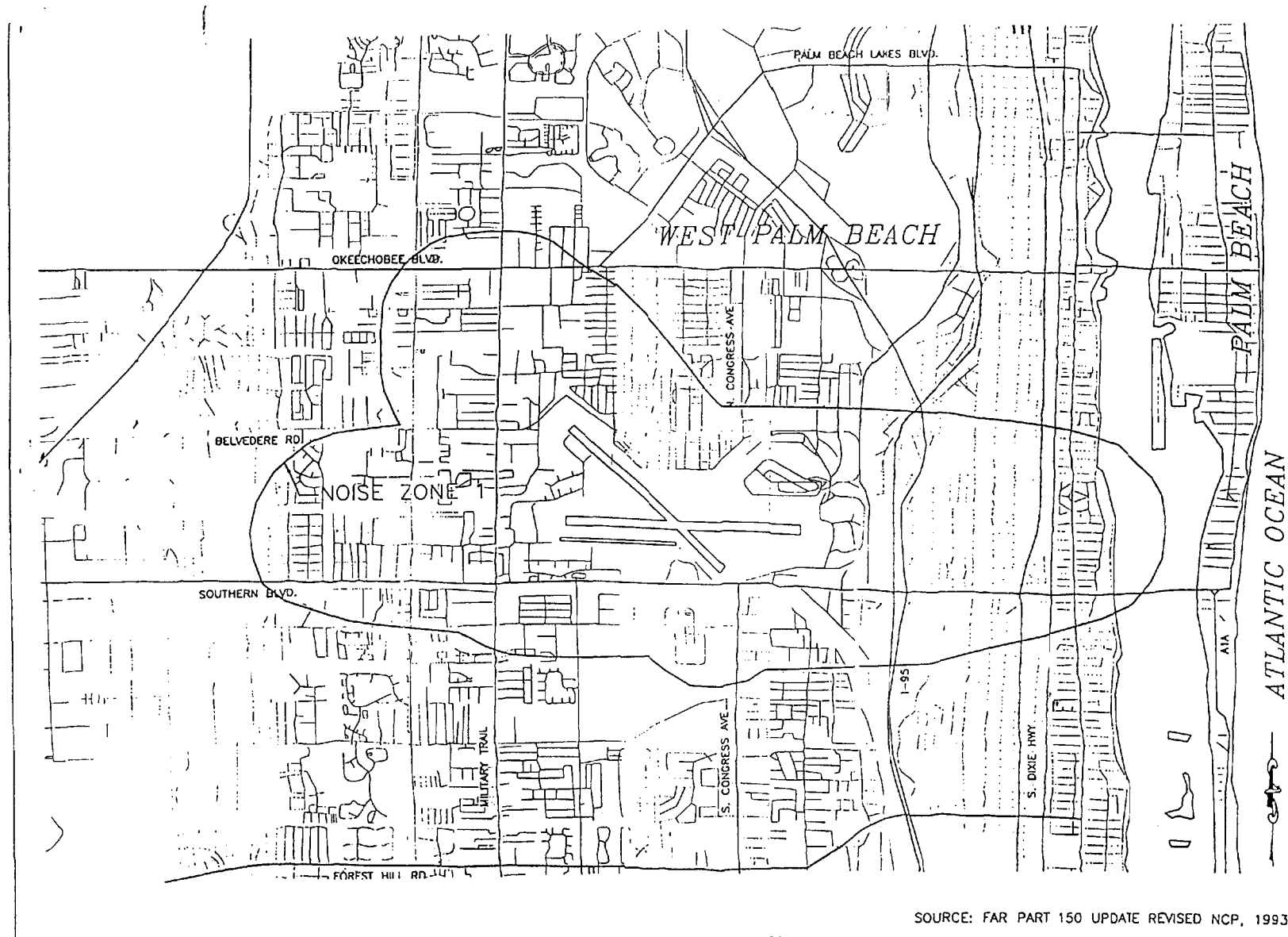
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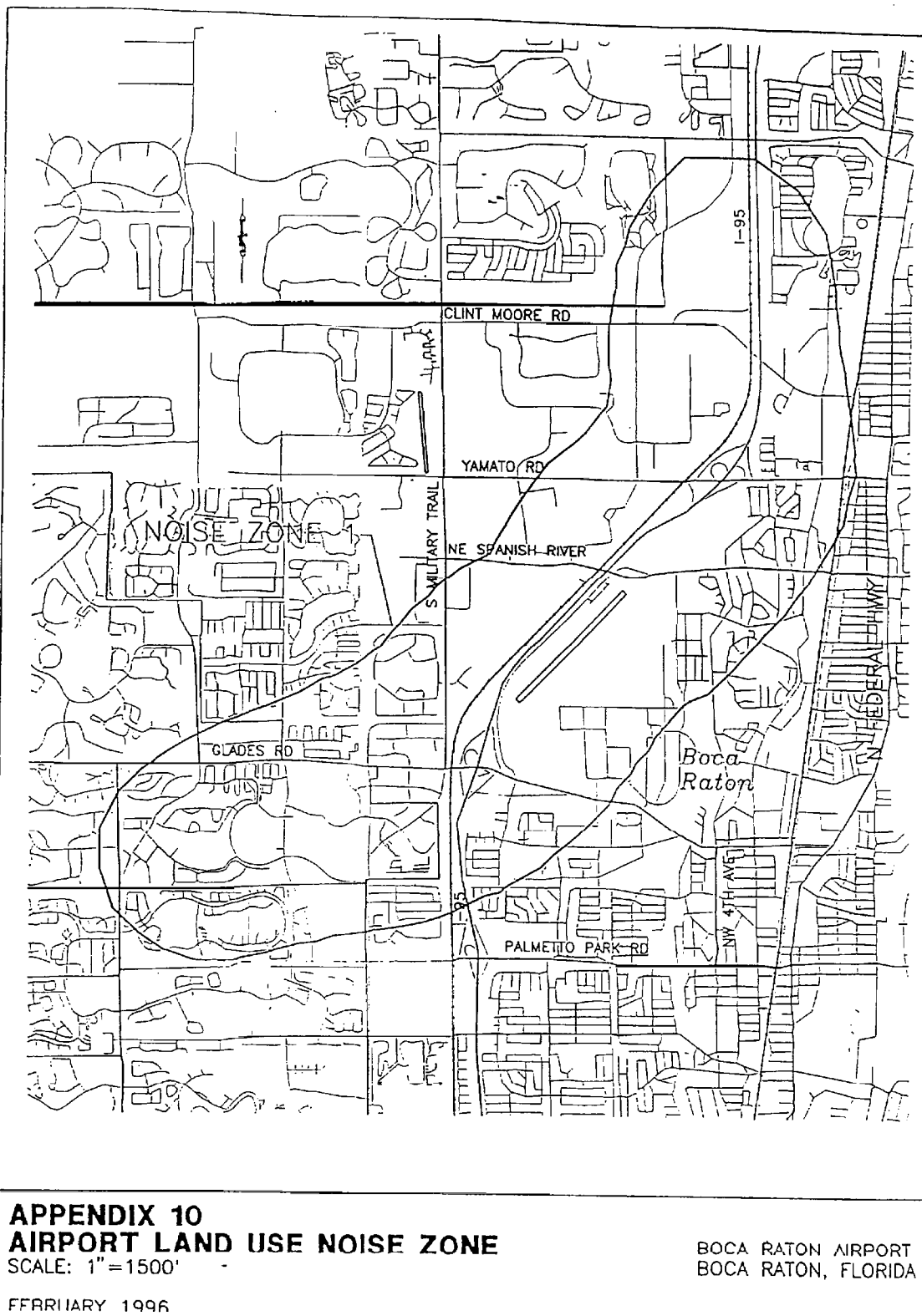
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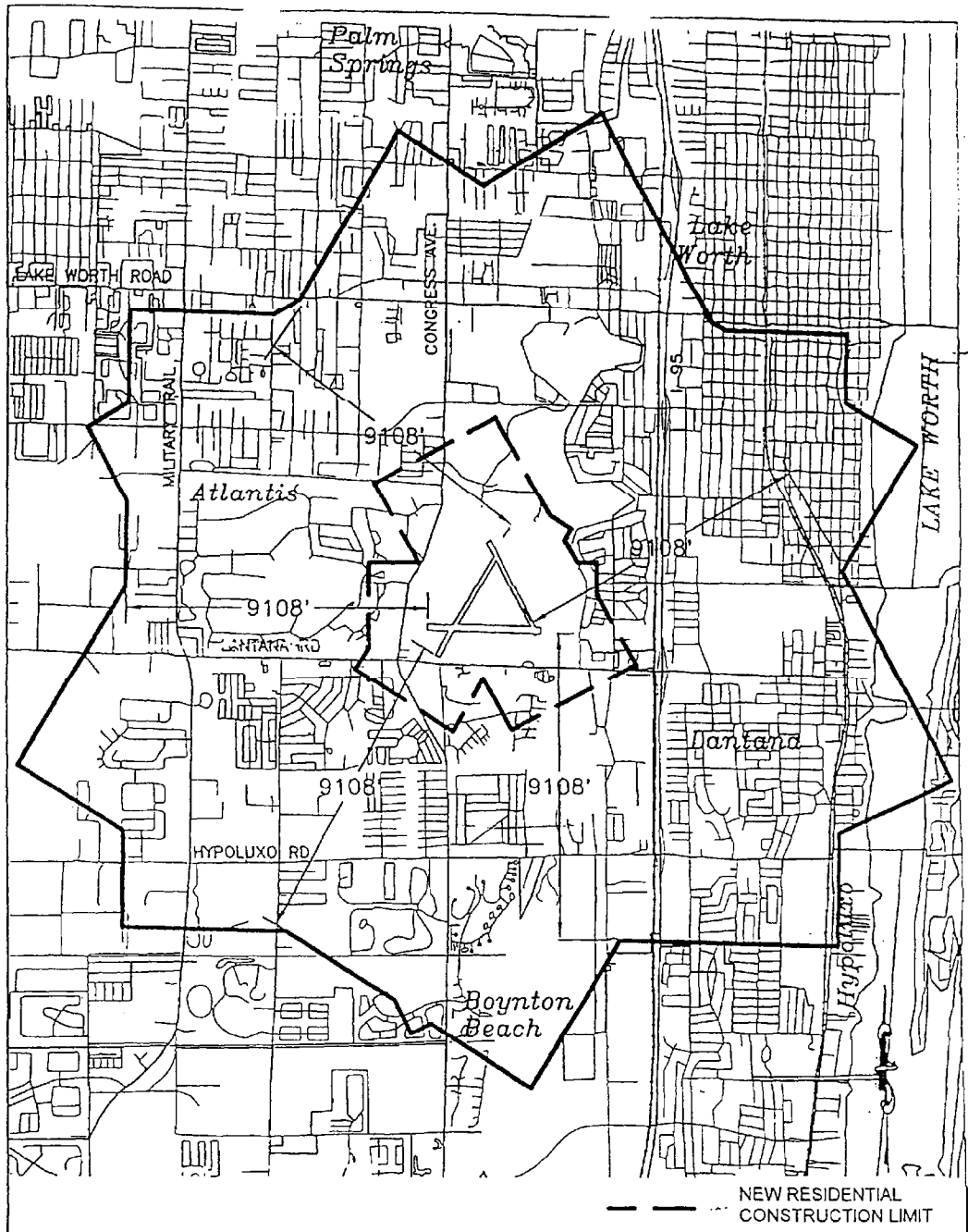
Second Reading

September 16, 1996



SOURCE: FAR PART 150 UPDATE REVISED NCP, 1993



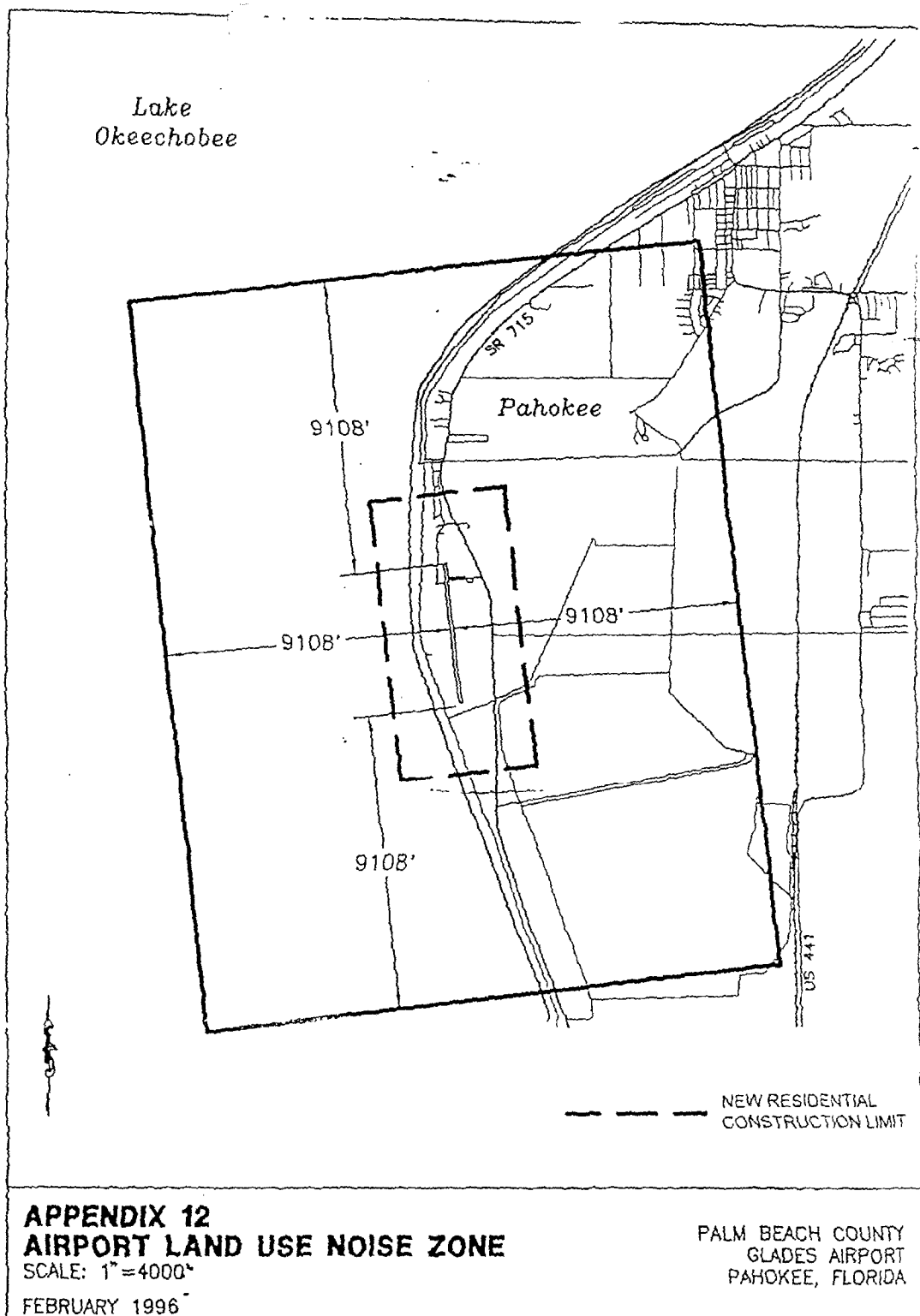


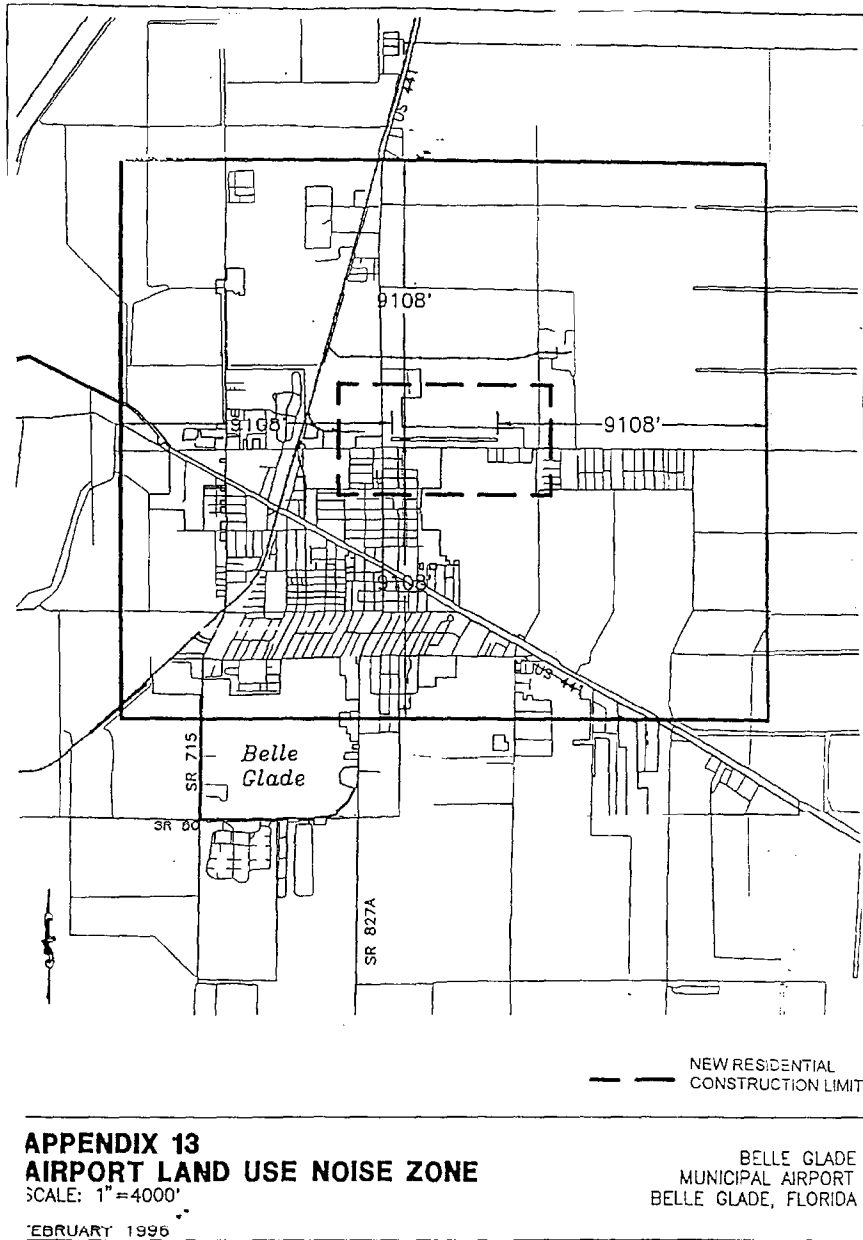
APPENDIX 11 **AIRPORT LAND USE NOISE ZONE**

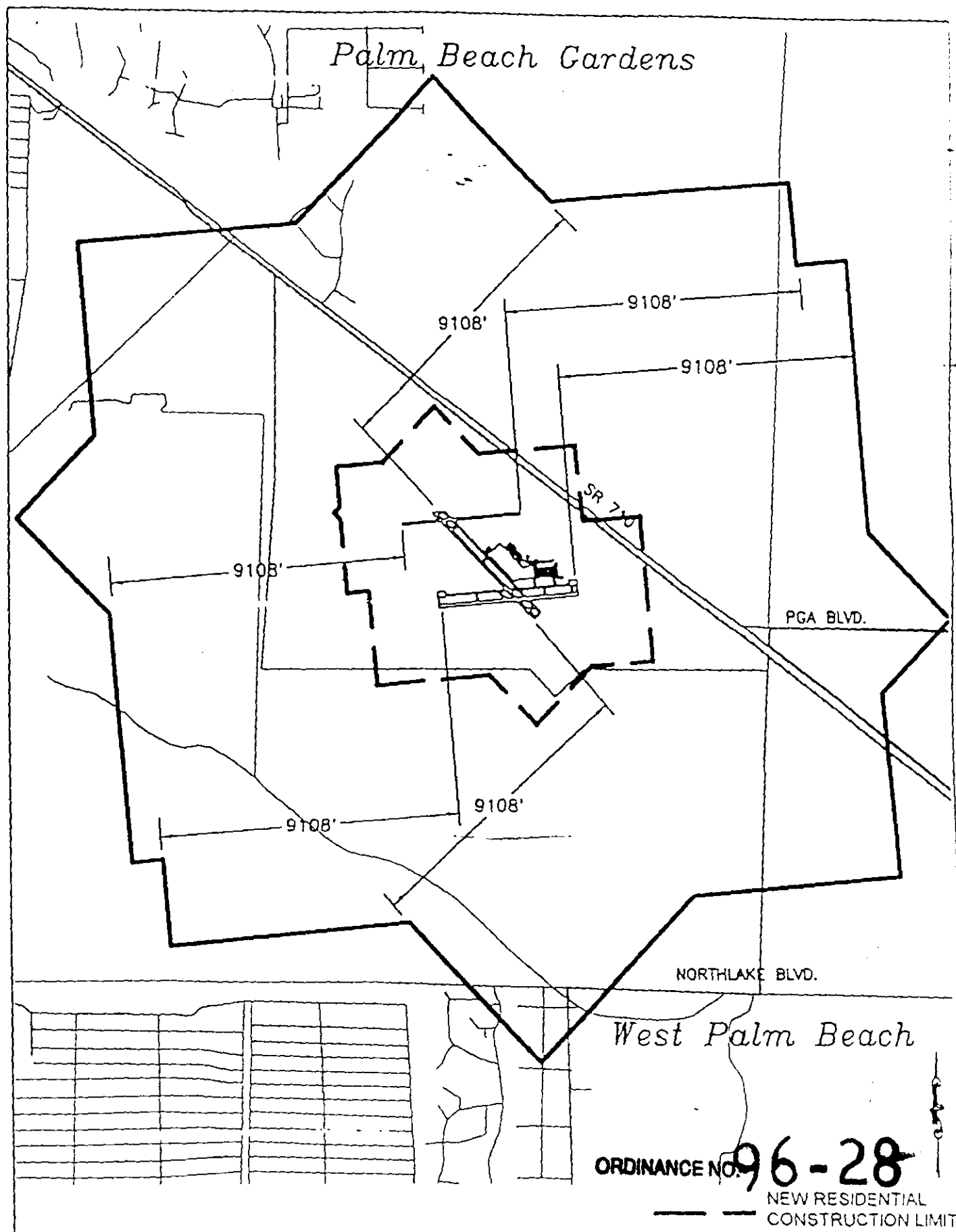
SCALE: 1"=4000'

FEBRUARY 1996

PALM BEACH COUNTY
 PARK AIRPORT
 LANTANA, FLORIDA







APPENDIX 14
AIRPORT LAND USE NOISE ZONE

SCALE: 1"=4000'

FEBRUARY 1996

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PALM BEACH NORTH
 COUNTY AIRPORT
 PALM BEACH GARDENS, FLORIDA

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PART 4. REPEAL OF LAWS IN CONFLICT:

PART 5. SEVERABILITY:

PART 6. INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE.

PART 7. EFFECTIVE DATE.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, on the 16 day of September, 1996.

By: John T. West
Deputy Clerk

By: [Signature]
County Attorney

Underlined language indicates proposed new language.
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**FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM**

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (904)-488-8427 or Suncom 278-8427.

78-2

COUNTY: (<u>Dade</u>)	COUNTY ORDINANCE # (<u>92-20</u>) <small>(e.g., 92 - 001)</small>
PRIMARY KEYFIELD DESCRIPTOR: (<u>ZONING</u>)	
SECONDARY KEYFIELD DESCRIPTOR: (<u>Planning</u>)	
OTHER KEYFIELD DESCRIPTOR: (_____)	
ORDINANCE DESCRIPTION: (<u>WLC</u>) <small>(25 characters maximum including spaces)</small>	
ORDINANCES AMENDED: (List below the ordinances that are amended by the this legislation. If more than two, list the most recent two.)	
AMENDMENT # 1: (<u>95-24</u>)	AMENDMENT # 2: (<u>95-13</u>)
ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)	
REPEAL # 1: (_____)	REPEAL # 3: (_____)
REPEAL # 2: (_____)	REPEAL # 4: (_____)
(Others repealed: list all that apply): _____	

(FOR OFFICE USE ONLY):	COUNTY CODE NUMBER: (<u> </u>)
KEYFIELD 1 CODE: (_____)	KEYFIELD 2 CODE: (_____)
KEYFIELD 3 CODE: (_____)	Rev. 1/2/88