ARTICLE 7.

SITE DEVELOPMENT STANDARDS

Please Note

This document has been prepared to serve as the interim copy of the Unified Land Development Code, adopted on June 16, 1992 and effective on June 22, 1992. It has been prepared for use by staff and those persons who refer to the entire Code on a regular basis.

This document is not codified and may contain certain inconsistencies in construction. It should only be used as a guide until a codified copy of the Code is available.

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SITE DEVELOPMENT STANDARDS

SEC. 7.1 GENERAL.

A. **Purpose and intent.** The purpose and intent of this article is to provide site development standards for development in unincorporated Palm Beach County, to ensure adequate landscaping and protection of the natural environment, to encourage design consistency, to ensure uncongested roads, and to protect the health, safety and welfare of the citizens of Palm Beach County.

B. **Authority.** The Board of County Commissioners has the authority to adopt this article pursuant to Art VIII, Sec. 1, Fla. Const., the Palm Beach County Charter, Sec. 125.01 et. seq., Fla Stat., and Sec. 163.3161 et. seq., Fla Stat.

SEC. 7.2 OFF-STREET PARKING AND LOADING.

A. **Purpose and intent.** The purpose and intent of this section is to ensure the provision of off-street parking, loading, queuing and on-site circulation facilities in proportion to the demand created by each use. By requiring such facilities, it is the intent of this section to ensure the provision of functionally-adequate, aesthetically-pleasing and safe off-street parking, loading, queuing and circulation areas.

B. **Applicability.** The standards of this section shall apply to all development in unincorporated Palm Beach County, or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on the previously approved plans. All off-street parking areas established by this section shall be continuously maintained according to the standards of this section.

1. **New buildings.** Off-street parking and loading facilities shall be provided for any new building constructed and for any new use established.

2. **Additions and enlargements.** Off-street parking and loading facilities shall be provided for any addition to or enlargement of an existing building or use, or any change of occupancy or manner of operation that would result in additional parking and loading spaces being required. The additional parking and loading spaces shall be required only in proportionate amount to the extent of the addition, enlargement, or change, not for the entire building or use.

3. **Off-street parking and loading schedule.** Off-street parking and loading spaces shall be provided in accordance with the following schedule of standards in Table 7.2-1: Minimum Off-Street Parking and Loading Standards.

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Residential Uses		
Single-family; duplex; patio home; townhouse cluster; mobile home	2 spaces per unit	N/A
Multi-family (excluding duplex)	1.25 spaces per efficiency unit; 1.75 spaces per one-or two-bedroom unit; 2 spaces per three-bedroom or larger unit, plus 0.25 guest parking spaces per unit for all dwelling units with common parking areas Multi-family (non-retirement) uses providing fifty or more spaces in a common parking area shall provide bicycle parking racks.	N/A
Congregate living facilities, Type 1	2 spaces	N/A
Congregate living facilities, Types 2-3	1 space per four (4) residents, plus 1 space per employee	N/A
Public and Civic Uses		
Airports, landing strips and heliports	1 space per tie-down and hangar space, minimum 5 spaces (None required for heliport or landing strip accessory to residential or agricultural use)	C
Athletic field	1 per space four (4) bleacher seats or 30 spaces per field, whichever is greater	N/A
Church or place of worship (excluding convent, rectory or retreat house)	1 space per three (3) seats (schools and gyms calculated separately)	N/A
College or university	1 space per two (2) students 1 space per four (4) seats in gymnasiums and auditoriums 1 space per 300 square feet of administrative and educational office space	C
Convent or cloister	2 spaces, plus 1 space per ten (10) residents	N/A
Day care center Less than 100 capacity 100 or more capacity	 5 transient spaces, plus 1 space per employee 10 transient spaces, plus 1 space per employee[1]	N/A

[1] Such facilities shall provide clear ingress and egress. A convenient passenger drop-off area located adjacent to the building and out of the primary travel lanes may be substituted for two (2) of the transient spaces in either type of day care center.

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Government services (except library)	1 space per three (3) seats of public assembly room, plus 1 space per employee[2]; may require bicycle rack if determined appropriate by DRC	N/A
Hospital or medical center	1.5 spaces per bed, plus 1 space per employee	C
Library	1 space per 400 square feet, plus 1 space per employee	N/A
Nursing or convalescent facility	1 space per four (4) beds, plus 1 space per employee; may require bicycle rack if determined appropriate by DRC	D
Rectory	1 space per clergy, plus 1 space per employee	N/A
Retreat house	1 space per three (3) beds, plus 1 space per employee	N/A
School, elementary	1 space per classroom, plus 1 space per employee; may require bicycle rack if determined appropriate by DRC	C
School, secondary	0.25 per student, plus 1 per employee may require bicycle rack if determined appropriate by DRC	C
Commercial Uses		
Amusements, temporary	1 space per four (4) seats, or 10 spaces per acre occupied by amusements, or 50 spaces, whichever is greater	N/A
Appliance sales	1 space per 200 square feet	B
Auction, enclosed	1 space per 200 square feet	C
Auction, open and vehicular	1 space per 250 square feet	N/A
Automotive paint or body shop	1 space per 250 square feet[3]	N/A
Automotive service station	1 space 250 square feet, excluding bays, plus 2 spaces per repair bay[4]	N/A

[2] If service is a direct service provider and is frequented on a daily basis by the general public, then one (1) space per two hundred (200) square feet of customer service space shall be provided.

[3] Stored vehicles shall not visible from off-site. A solid, opaque fence, wall or vegetative screen, with a minimum height of six (6) feet may be used to screen the vehicles from view.

[4] If a convenience store containing more than 1,500 square feet is associated with the service station, then one-half (0.50) of the required spaces shall be located adjacent to the store. In all cases, required handicapped spaces shall be located adjacent to the store.

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Bakeries, commercial preparation	1 space per 10,000 square feet, plus 1 space per employee	C
Bakeries, retail	1 space per 200 square feet	N/A
Boatyard	1 space per wet slip, plus 1 space per three (3) dry storage compartments, plus 1 space per employee	N/A
Bowling alley	2 space per lane, plus 1 space per 250 square feet of nonbowling recreation area	C
Building supplies	1 space per 200 square feet	B
Camp	1 space per campsite, plus 1 space per employee or counselor	C
Car wash (principal use)	1 space per 250 square feet	N/A
Chemical sales	1 space per 250 square feet	C
Confectionery, commercial preparation	1 space per 10,000 square feet, plus 1 per employee	A
Convenience store	1 space per 200 square feet; may require bicycle rack if determined appropriate by DRC	C
Dairy processing	1 space per 10,000 square feet, plus 1 space per employee	A
Dry cleaning and laundry plant	1 space per 10,000 square feet, plus 1 space per employee	B
Entertainment, indoor (except bowling alleys)	1 space per 250 square feet	C
Entertainment, outdoor	10 spaces per acre	N/A
Financial institution	1 space per 200 square feet	N/A
Flea market, enclosed	1 space per 200 square feet	C
Flea market, open	1 space per 250 square feet	N/A
Funeral home	1 space per four (4) person seating capacity	C
Furniture or carpet sales	1 space per 200 square feet, plus 1 space per 750 square feet of indoor storage space	B
Garden center	1 space per 200 square feet of floor area covered by solid roof, plus 1 space per 800 square feet of shade house area.	B
Gas and fuel, wholesale	1 space per 250 square feet	N/A
Golf course	4 spaces per hole	N/A

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Greenhouse or nursery	1 space per 10,000 square feet, plus 1 space employee	B
Hardware, paint and garden supplies	1 space per 200 square feet	C
Hotel or motel	1 space per guest room, plus 1 space per employee	C
Hotel, single room occupancy (SRO)	1 space per three (3) guest rooms	N/A
Laundry service	1 space per 200 square feet	N/A
Lounge	1 space per two (2) occupant capacity	C
Lumberyard	1 space per 250 square feet	B
Machinery sales, retail	1 space per 250 square feet	B
Marina	1.5 spaces per wet slip, plus 1 space per three (3) dry storage compartment	N/A
Meat cutting	1 space per 250 square feet	N/A
Medical or dental clinic	1 space per 200 square feet	C
Medical or dental laboratory	1 space per 200 square feet	C
Monument sales, retail	1 space per 250 square feet	N/A
Motorcycle or moto-cross track	20 spaces per facility, plus 1 space per four seats if facility is intended for spectator events.	N/A
Moving and storage	1 space per 10,000 square feet, plus 1 space per employee	A
Museum or art gallery	1 space per 250 square feet, plus 1 space per employee	C
Newsstand	1 space per 200 square feet	N/A
Office, business or professional	1 space per 200 square feet; may require bicycle rack if determined appropriate by DRC	N/A
Personal services	1 space per 200 square feet	N/A
Pharmacy	1 space per 200 square feet	C
Precision instruments	1 space per 250 square feet	C
Printing and copying services	1 space per 250 square feet	C
Utility, public or private	1 space per 10,000 square feet, plus 1 space per employee	N/A
Racetracks, auto, dog and horse	1 space per four (4) seats	C
Repair services	1 space per 250 square feet	N/A
Restaurant, fast food	1 space per three (3) seats, plus queuing per Sec. 7.2.D.14	C

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Restaurant, general and specialty	1 space per 80 square feet, including outdoor seating area	C
Restaurant, take-out	1 space per each employee, plus queuing per Sec. 7.2.D.14	C
Retail sales, general	1 space per 200 square feet; retail uses in CN district shall provide bicycle parking	C
Retail sales, bulky goods	1 space per 200 square feet, plus 1 space per 750 square feet of indoor storage space	B
Retail sales, mobile or temporary-enclosed	1 space per four (4) seats	N/A
Retail sales, mobile or temporary-open	50 spaces or 10 spaces per acre, whichever is greater	N/A
Salvage yard	1 space per 10,000 square feet, plus 1 space per employee	C
Security or caretakers quarters	2 spaces	N/A
Self-service storage facility	1 space per 200 storage bays, plus 1 space per employee and 2 customer spaces	N/A
Shopping centers, community and regional	1 space per 200 square feet of gross leasable floor area (GLFA)	B
Stable, commercial	1 space per 300 square feet within stable, plus 1 space per three (3) animal stalls	N/A
Swimming pool	1 space per 50 square feet of pool area; those open to the public shall provide bicycle parking racks	N/A
Tennis courts	1.5 spaces per court; those open to the public shall provide bicycle parking racks	N/A
Theaters, auditoriums and public assembly	1 space per three (3) seats, plus 1 space per employee	N/A
Upholstery shop	1 space per 250 square feet	N/A
Vehicle sales and rental	1 space per 500 square feet of enclosed area, plus 1 space per 4,500 square feet of outdoor sales, rental and display area, plus 1 space per service bay, plus 1 space per employee	A
Veterinary office	1 space per 200 square feet, excluding animal exercise areas	N/A
Woodworking or cabinetmaking	1 space per 250 square feet	C
Yacht club	1.5 spaces per wet slip, plus 1 space per three (3) dry storage compartment, plus separately-calculated parking for other associated uses	N/A

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Agricultural Uses		
Agricultural use, accessory	5 spaces or 1 space per employee, whichever is greater (no spaces required for accessory storage buildings and barns)	N/A
Agricultural research and development	10 spaces or 1 space per employee, whichever is greater	B
Farming, general	N/A	N/A
Migrant farm labor quarters	0.5 space per dwelling unit	N/A
Industrial Uses		
Basic industry and manufacturing and processing	1 space 1,000 square feet, plus 1 space per employee	A
Warehouse	1 space per 2,000 square feet, plus 1 space per employee	A

Loading space ratios from Sec. 7.2.D. Off-street loading spaces shall be provided in accordance with the standards of the off-street parking and loading schedule in Table 7.2-1. The letters shown in the "loading" column of the schedule shall correspond to the following ratios:

a. Standard "A". One (1) space for the first five thousand (5,000) square feet of floor area, plus one (1) space for each additional thirty thousand (30,000) square feet of floor area;

b. Standard "B". One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional fifteen thousand (15,000) square feet of floor area;

c. Standard "C". One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional one hundred thousand (100,000) square feet of floor area; and

d. Standard "D". One (1) space for each fifty (50) beds for all facilities containing twenty (20) or more beds.

C. Off-street parking.

1. Computing parking standards.

a. Multiple uses. On lots containing more than one (1) use, the total number of required off-street parking spaces shall be equal to the sum of the required parking for each use as if provided separately, unless a shared parking arrangement is approved pursuant to Sec. 7.2.C.8 (Shared parking).

b. Fractions. When calculation of the number of required off-street parking spaces results in a fractional number, a fraction of less than one-half (0.50) shall be disregarded and a fraction of one-half (0.50) or more shall be rounded to the next highest whole number.

c. Floor area. Off-street parking standards that are based on square footage shall be computed using gross floor area (GFA), unless another measurement is specifically called for in this section.

d. Employees or occupants. When the calculation of required parking spaces is based on the number of employees or persons, the calculation shall be based on the maximum number of employees or persons on duty or legally residing on the premises at any one (1) time.

e. Bench seating. When the calculation of required parking spaces is based on the number of seats, each twenty-two (22) linear inches of bench, pew, or similar bench seating facility shall be considered one (1) seat.

f. Gross lot area. When the calculation of required parking spaces is based on gross lot area, the amount of lot area dedicated to off-street parking shall not be included in the calculation.

g. Unlisted land uses. In the event that off-street parking standards for a particular use are not listed in this section, the standards for the most similar use shall be applied. In making the determination, any evidence of actual parking demand for similar uses shall be considered as well as other reliable traffic engineering and planning information that is available.

h. Delayed computations. The determination of the number of required off-street parking spaces may be delayed until the submission of an application for development permit for a building permit in the following instances:

(1) Where the formula for calculating the number of parking spaces consists of two (2) or more different rates, and there is uncertainty about how some of the floor or lot area shall be used; or

(2) When it is unknown which portions of a structure are to be deleted from gross floor area to calculate gross leasable floor area.

2. **Location of required parking.** Except as provided in Sec. 7.2.C.8 (Shared parking), Sec. 7.2.C.9 (Off-site parking) and Sec. 7.2.C.11 (Valet parking), all required off-street parking, except for fee simple developments with common parking lots, shall be provided upon the same lot as the principal use. The location of required off-street parking spaces shall not interfere with normal traffic flow or with the operation of queuing and backup areas. Loading areas shall not obstruct pedestrian pathways.

   a. **Distance from building or use.** Unless otherwise provided in this section, no on-site parking space shall be located more than six hundred (600) feet from the building or use it is intended to serve. This standard shall not apply to parking spaces provided for auditoriums, stadiums, assembly halls, gymnasiums, and other places of assembly, nor shall it apply to hospitals, large-scale retail, wholesale, and consumer service uses of over five hundred thousand (500,000) square feet or industrial, wholesaling or manufacturing establishments.

   b. **Buffers and rights-of-way.** There shall be no parking or storing of vehicles in the landscape buffer or the existing or ultimate right-of-way of an abutting street.

   c. **Sidewalk access for rear parking.** There shall be no parking of automobiles at the rear of a structure unless a public pedestrian walk connects it to the front of the structure or there exists an entran[illegible]tore in the rear. Such pedestrian accessway shall be a minimum of four (4) feet in width, clearly marked, well lighted and unobstructed.

   d. **Garages and carports.** Space within a carport or garage may be used to satisfy residential off-street parking standards, provided that no building permit shall be issued to convert a carport or garage to a living area without provision of required off-street parking spaces in the driveway or in a common parking lot.

3. **Use of required off-street parking areas.** Off-street parking spaces shall be provided for the use of residents, customers, patrons and employees. Required parking spaces shall specifically not be used for the storage, sale or display of goods or materials or for the sale, repair, or servicing of vehicles. All vehicles parked within off-street parking areas shall must be registered and capable of moving under their own power. Required parking areas shall not be used by delivery vehicles. Required off-street parking spaces shall be free from building encroachments, except that a portion of the required parking area may be used for the following purposes:

   a. **Temporary events.** Required off-street parking areas may be used on a temporary basis pursuant to a special use issued by the Zoning Director for the outdoor sales of goods, fairs, and other temporary events; or

b. **Recyclable materials collection bins.** Required off-street parking areas may be occupied by recyclable materials collection bins that have been approved as a special use in the CC or CG districts or a PUD commercial pod. The bin shall retain its mobility and shall not occupy more than five (5) percent of the total on-site parking spaces. The bin and adjacent area shall be maintained in good appearance, free from trash.

4. **Parking fees.** Except as provided in Sec. 7.2.D.11 (Valet parking) and Sec. 7.2.D.15 (Public, private or commercial lots), a fee or other form of compensation shall not be charged for the use of required off-street parking spaces. Fees may be charged for the use of parking spaces that have been provided in excess of minimum standards.

5. **Motorcycle parking.** For any nonresidential use providing fifty (50) or more spaces, a maximum of three (3) required off-street parking spaces may be reduced in size and redesigned to accommodate parking of motorcycles. When provided, motorcycle parking shall be identified by a sign.

6. **Handicapped parking.** The provision of handicapped parking spaces and passenger loading zones shall be governed by Secs. 316.1955, 316.1956, and 553.48, Fla. Stat. All handicapped parking spaces shall be paved. The handicapped parking regulations required by Florida Statutes are available at the Publications Office of the PZB Department. A portion of the minimum number of required off-street parking spaces may be used to satisfy the handicapped parking space standards. The minimum number of handicapped parking spaces shall comply with the following table:

TABLE 7.2-2
HANDICAPPED PARKING SPACES AND PASSENGER LOADING ZONES

Total Spaces or Zones	Required Number to be Reserved for Handicapped
up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of Total
over 1000	20 Plus 1 For Each 100 Over 1000

7. **Guest parking.** Guest parking spaces, where required, may be grouped, provided that the spaces are located within three hundred (300) feet of the dwellings that they are intended to serve. Guest parking may be grassed, as provided in Sec. 7.2.D.10 (grassed parking), except that no permit is required. Each space shall be provided with wheelstops, except for grassed guest parking, which is designed as parallel parking. All guest parking shall be prominently identified with an above-grade sign or marking on the wheelstop.

8. **Shared parking.** The Development Review Committee may authorize a reduction in the number of required parking spaces for multiple use developments or for uses that are located near one another and which have different peak parking demands and operating hours. Shared parking shall be subject to the following standards:

   a. **Application.** In addition to the application for development permit for Site Plan/Plat, the applicant shall submit that additional application information for shared parking required by the Zoning Director and made available to the public;

   b. **Location.** All uses which participate in a single shared parking plan shall be located on the same lot or on contiguous lots. The shared parking lot shall be developed and used as though the uses on the lots were a single unit;

   c. **Shared parking study.** A Shared parking study acceptable to the Zoning Director shall be submitted which clearly establishes that uses will use the shared spaces at different times of the day, week, month or year. The study shall:

      (1) Be based on the Urban Land Institute's methodology for determining shared parking or other generally accepted methodology;

      (2) Address the size and type of activities, the composition of tenants, the rate of turnover for proposed shared spaces, and the anticipated peak parking and traffic loads;

      (3) Provide for reduction of paved area by not more than fifty (50) percent of the combined parking required for each use under Sec. 7.2.C, and 7.2.D (Off-street parking and loading schedule);

      (4) Provide for no reduction in the number of required handicapped spaces;

      (5) Provide a plan to convert the open space reserved pursuant to Sec. 7.2.C.8.d, 7.2.C.8.d (Reservation of extra space), to parking area; and

      (6) Be approved by the County Engineer prior to submittal, based on the feasibility of the uses to shared parking due to their particular peak parking and trip generation characteristics.

d. **Reservation of extra space.** Enough land area shall be reserved on the site of a shared parking lot to provide for the combined total parking standards of each use, or an alternate plan showing adequate area to accommodate any needed extra parking shall be provided. A reserved area shall not be used for on-site retention of storm-water runoff nor shall it be used to satisfy the landscaping and buffering standards of this section. Preservation areas designated and protected by any government shall not be used to satisfy the reserve standard. The reserved area shall be landscaped and maintained to present an orderly appearance.

e. **Agreement for shared parking plan.** A shared parking plan shall be enforced through written agreement or through unity of control. An attested copy of the agreement between the owner of record and Palm Beach County shall be submitted to the Zoning Director who shall forward a copy to the County Attorney for review. The agreement shall be recorded in the deed records of Palm Beach County by the owner of record prior to issuance of a certificate of occupancy. Proof of recordation of the agreement shall be presented to the Zoning Director prior to certification by the Development Review Committee. The agreement shall:

(1) List the names and ownership interest of all parties to the agreement and contain the signatures of those parties;

(2) Provide a legal description of the land;

(3) Include a site plan showing the area of the parking parcel and open space reserved area which would provide for future parking;

(4) Describe the area of the parking parcel and designate and reserve it for shared parking unencumbered by any conditions which would interfere with its use;

(5) Agree and expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;

(6) Assure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable without charge to all participating uses;

(7) Describe the obligations of each party, including the maintenance responsibility to retain and develop reserved open space for additional parking spaces if the need arises;

(8) Incorporate the shared parking study by reference;

(9) Be made part of the Site Plan/Final Subdivision Plan; and

(10) Describe the method by which the covenant shall, if necessary, be revised.

f. Change in use. Should any of the shared parking uses be changed, or should the Zoning Director find that any of the conditions described in the approved shared parking study or agreement no longer exist, the owner of record shall have the option of submitting a revised shared parking study in accordance with the standards of this section or of providing the number of spaces required for each use as if computed separately.

9. Off-site parking. Required off-street parking spaces shall be on the same lot as the use it is intended to serve, provided that the Development Review Committee may permit all or a portion of the required parking spaces to be located on a remote and separate lot from the lot on which the principal use is located. Off-site parking shall be subject to the following standards:

a. Necessity. The applicant shall demonstrate that it is not feasible to locate all of the required parking on the same lot as the principal use;

b. Ineligible activities. Off-site parking shall not be used to satisfy the off-street parking standards for restaurants, lounges, convenience stores and other convenience-oriented uses. Required handicapped parking spaces shall not be located in an off-site parking facility;

c. Location. No off-site parking space shall be located more than six hundred (600) feet from the primary entrance of the use served, measured along the route of the shortest legal, practical walking distance. Off-site parking spaces shall not be separated from the principal use by a street right-of-way with a width of more than eighty (80) feet;

d. Official Zoning Map Classification. Off-site parking areas shall require the same or a more intensive Official Zoning Map classification than that required for the use served;

e. Agreement for off-site parking. In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement or unity of control shall be required. An attested copy of the agreement among the owners of record shall be submitted to the Zoning Director who shall forward a copy to the County Attorney for review. The agreement shall be filed in the deed records of the County by the owner of record. Proof of recordation of the agreement shall be presented to the Zoning Director. The agreement shall:

(1) List the names and ownership interest of all parties to the agreement and contain the signatures of those parties;

(2) Provide a legal description of the land;

(3) Include a site plan showing the area of the use and parking parcel;

(4) Expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;

(5) Assure the continued availability of the spaces and provide assurance that all spaces will be usable without charge;

(6) Describe the obligations of each party, including the maintenance responsibility;

(7) Require that the Zoning Director be notified prior to the expiration or termination of an off-site parking area lease agreement;

(8) Be made part of the Site Plan/Final Subdivision Plan; and

(9) Describe the method by which the covenant shall, if necessary, be revised.

f. Signs. One (1) sign shall be located at the off-site parking facility indicating the use that it serves, and one (1) sign shall be located on the site of the use served, indicating the location of the off-site parking facility.

10. Grassed parking. Grassed parking shall be permitted if approved by the Development Review Committee, pursuant to the following procedures and standards:

a. Application. In addition to the application for development permit for Site Plan/Final Subdivision Plan, the applicant shall submit the following:

(1) A written statement of and a site plan showing the area proposed for grassed parking and the proposed method of traffic control to direct vehicular flow and parking;

(2) A written statement that the parking area proposed for grassed parking shall be used for parking on an average of no more than two (2) days or nights each week. This information shall contain the proposed hours and days of the expected use of the grassed parking and the expected average daily traffic and peak hour traffic counts, as calculated by a professional engineer qualified to perform such studies;

(3) Description of the method to ensure that the grassed parking surface will be maintained in its entirety with a viable turf cover;

(4) A conceptual drainage plan for the entire parking area; and

(5) A description of the soil type of the area proposed for grassed parking.

b. Standards. The following standards shall apply to grassed parking:

(1) Only parking spaces provided for peak demand may be approved as grassed parking. Paved parking shall be provided for average daily traffic, including weekday employees and visitors;

(2) A grassed parking area shall not include any existing or proposed landscaped area, surface water management area or easement other than a utility easement;

(3) Handicapped parking shall not be located within a grassed parking area;

(4) Grassed parking areas shall meet minimum landscaping requirements of Sec. 7.3.E.2 (Interior of vehicular use areas). No grassed parking area shall be counted toward meeting the minimum landscape or open space standards; and

(5) Within grassed parking areas, all access aisles shall either: (a) be paved and meet the same substructural and surface standards as for paved asphaltic parking surfaces; or (b) be surfaced with paver block, or other semi-pervious coverage approved by the Zoning Director.

c. Permit. If at any time prior to the approved expiration date of the development order for Site Plan/Final Subdivision Plan, it is determined that a grassed parking area does not meet the standards established in this section, the Zoning Director shall require the restoration of the grassed surface or the paving of the grass for parking.

d. Regulatory treatment of grassed parking areas. All surface parking areas, grassed or otherwise, shall be considered impervious paved surface for the purpose of determining tertiary drainage system flow capacity and secondary stormwater management system runoff treatment/control requirements.

11. Valet parking. Valet parking may be used upon any lot to satisfy off-street parking standards. The design of valet parking shall not cause customers who do not use the valet service to park off-premise or in the right-of-way or cause queuing in the right-of-way. The following additional standards shall apply to valet parking arrangements.

a. Maximum number of reserved spaces. Up to fifty (50) percent of the required off-street parking spaces may be reserved for valet parking.

b. Location of reserved spaces. Off-street parking spaces reserved for valet parking may be located anywhere on-site, except that handicapped parking spaces shall be the spaces located closest to the nearest accessible entrance of the building that the parking spaces are intended to serve.

12. Parking area design and construction standards.

a. Dimensions and geometrics. The dimensions and geometrics of off-street parking areas shall conform to the following minimum standards:

(1) Residential.

(a) Without common parking lot. Each parking space for dwelling units that do not share a common parking lot shall be a minimum of eight (8) feet wide and twenty (20) feet long. Parking spaces may be side to side, end to end or not contiguous to each other.

(b) With common parking lots. For dwelling units that share a common parking lot, parking spaces and aisles shall be subject to the "general" dimensional standards of Table 7.2-3

(2) Nonresidential. All nonresidential uses and residential uses with shared parking lots shall provide parking spaces that comply with the dimensional requirements of standards of Table 7.2-3 and Figure 7.2-1. If proposed parking angles are not illustrated in Table 7.2-3 or Figure 7.2-1, dimensions shall be interpolated from the tables and approved by the Zoning Director. For the purpose of interpreting the "Use" column of Table 7.2-3 the following rules shall apply:

(a) General. The term "general" applies to parking spaces designated to serve all commercial uses, except retail uses, and also residential uses with shared parking lots. Spaces reserved for use by disabled persons shall be governed by the rows labelled "handicapped";

(b) Retail uses. All retail uses shall provide parking spaces that have minimum widths of nine and one-half (9.5) feet. Other required dimensions of the space shall be governed by Table 7.2-3;

(c) Handicapped parking. All spaces marked and reserved for use by persons with disabilities shall be installed in accordance with the standards of Secs. 316.1955, 316.1956 and 553.48, Fla. Stat.; and

(d) Queuing distance. A minimum queuing distance of twenty (20) feet is required between the land line and the first parking space.

(3) Parallel parking. Parallel parking spaces shall have minimum lengths of twenty-three (23) feet and minimum widths of ten (10) feet (see Figure 7.2-2).

(4) Measuring parking space width. Where double striping is used to mark spaces, parking space width shall be measured from the centerline of one (1) set of stripes to the centerline of the corresponding set of stripes.

TABLE 7.2-3
MINIMUM PARKING BAY DIMENSIONS FOR
NONRESIDENTIAL USES AND RESIDENTIAL USES WITH SHARED PARKING LOTS

A Angle	B Space Width (feet)	C Space Depth (feet)	D Aisle Width (feet)	E Curb Length (feet)	F Wall-to-Wall Width (feet)	G Interlock-to-Interlock Width (feet)	H Space Depth to Interlock (feet)	Land Use*
45	9.0	17.5	12.0	12.5	47.0	43.0	15.5	General
	9.5	17.5	12.0	13.5	47.0	43.0	15.5	Retail
	12.0	17.5	12.0	17.0	47.0	43.0	15.5	Handicapped
60	9.0	19.0	16.0	10.5	55.0	51.0	17.5	General
	9.5	19.0	15.0	11.0	54.0	50.0	17.5	Retail
	12.0	19.0	14.0	14.0	53.0	49.0	17.5	Handicapped
70	9.0	19.5	19.0	9.5	58.0	56.0	18.5	General
	9.5	19.5	18.0	10.0	57.0	55.0	18.5	Retail
	12.0	19.5	17.0	12.5	56.0	54.0	18.5	Handicapped
75	9.0	19.5	23.0	9.5	62.0	60.0	18.5	General
	9.5	19.5	22.0	10.0	61.0	59.0	18.5	Retail
	12.0	19.5	21.0	12.5	60.0	58.0	18.5	Handicapped
80	9.0	19.5	24.0	9.0	63.0	62.0	19.0	General
	9.5	19.5	23.0	9.5	62.0	61.0	19.0	Retail
	12.0	19.5	22.0	12.0	61.0	60.0	19.0	Handicapped
90	9.0	18.5	26.0	9.0	63.0	63.0	18.5	General
	9.5	18.5	25.0	9.5	62.0	62.0	18.5	Retail
	12.0	18.5	24.0	12.0	61.0	61.0	18.5	Handicapped

1. Dimensional requirements for parking spaces shall vary depending on the angle of parking provided and the land use served.

2. The term "General" applies to parking spaces designated to serve all commercial uses, except retail uses, and also residential uses with shared parking lots. Spaces reserved for use by persons with disabilities shall be governed by the rows labelled "Handicapped". The "unspecified" row provides a guideline for the design of spaces above the minimum required width.

FIGURE 7.2-1:
PARKING SPACE SCHEMATIC

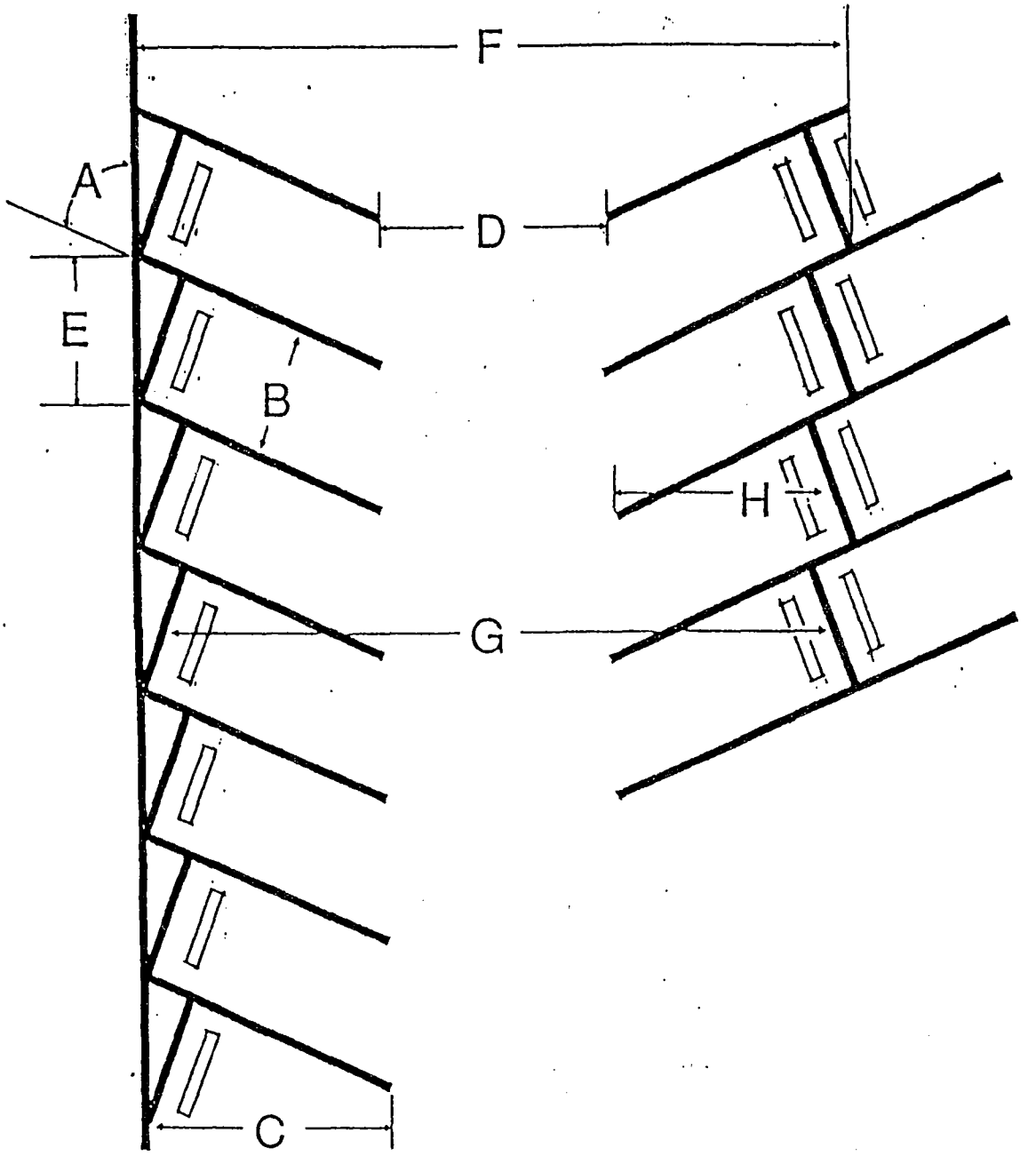
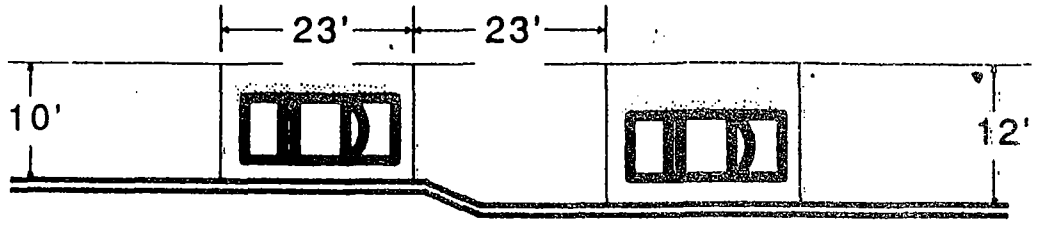
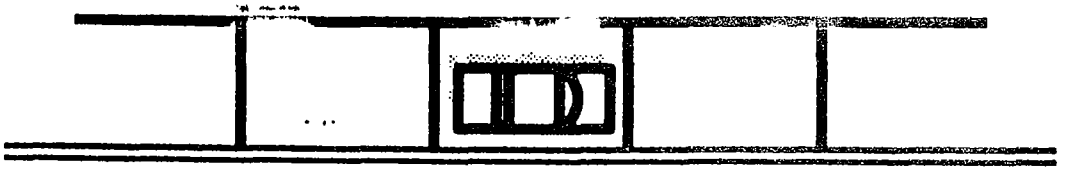


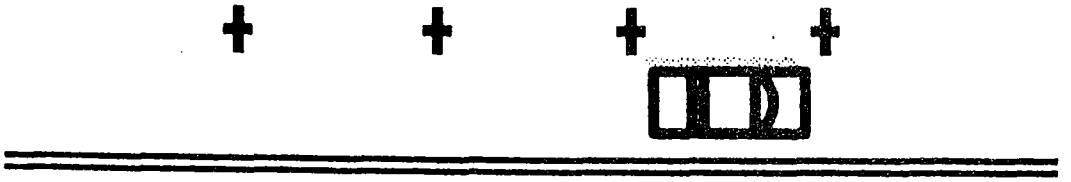
FIGURE 7.2-2:
PARALLEL PARKING DIMENSIONAL STANDARD AND MARKING OPTION



DIMENSIONAL REQUIREMENTS



MARKING OPTION-1



MARKING OPTION-2

b. Construction and design of parking area.

(1) General on-site circulation standards.

(a) There shall be safe, adequate, and convenient arrangement of pedestrian pathways, bikeways, roads, driveways, and off-street parking and loading spaces within parking areas.

(b) Streets, pedestrian walks, parking areas, and open space shall be designed as integral parts of an overall site design which shall be properly related to existing and proposed buildings, adjacent uses and landscaped areas.

(c) The materials used in the design of paving, lighting fixtures, retaining walls, fences, curbs and benches shall be of good appearance, easily maintained and indicative of their function.

(d) Parking lots shall be maintained in a safe operating condition and manner as to not create a hazard or nuisance.

(2) Pedestrian circulation.

(a) Structures, vehicular circulation lanes, parking spaces, driveways, and open spaces shall be designed to provide logical, impediment free pedestrian movement. The site shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.

(b) Paved, landscaped or comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings.

(c) Where off-street parking spaces directly face a structure, and are not separated by an access aisle from the structure, a paved pedestrian walkway shall be provided between the front of the parking space and the structure. The walkway shall be a minimum of four (4) feet wide, exclusive of vehicle overhang, and shall be separated from the parking space by concrete wheel stops or continuous curbing. Residential vehicular use areas are exempt from this standard.

(3) Paving and drainage design.

(a) Review and approval by County Engineer. The drainage design shall be reviewed by the County Engineer, and no permit shall be issued until the drainage design is approved by the County Engineer.

(b) **Materials.** Unless otherwise provided in this section, all vehicular use areas and specialized vehicular use areas shall be improved either with: (a) a minimum of a six (6) inch shellrock or limerock base with a one (1) inch hotplant mix asphaltic concrete surface; or (b) a base and surface material of equivalent durability, as certified by the developer's engineer. Responsibility for pavement failure occurring as a result of inadequate alternative base and surface material design shall fall on the certifying engineer.

(c) **Maintenance of paved vehicular use areas.** All vehicular use areas or specialized vehicular use areas shall be maintained in good condition to prevent any hazards, such as cracked asphalt or potholes.

(d) **Shell rock.** The uses and associated features listed below may construct surface parking lots with shellrock or other similar material.

i) Agricultural uses with less than twenty (20) spaces.

ii) Communication towers in the agricultural districts.

iii) Camps in the agricultural districts.

iv) Greenhouses and nurseries in the agricultural districts.

v) Driveways in the Rural Residential District serving residential uses on unpaved roads.

vi) Other similar uses when approved by the Development Review Committee.

(e) **Wheelstops or curbing required.** Wheel stops or continuous curbing shall be placed two and one-half (2.5) feet back from walls, poles, structures, pedestrian walkways or landscaped areas. The area between any wheel stop and required landscaped strip may be landscaped, rendering the paved space area fifteen (15) to sixteen (16) feet in length, depending on the angle of parking provided.

(4) **Lighting.** If a vehicular use area, or a specialized vehicular use area is to be open for use after dark, it shall be lighted. Lighting shall be arranged and designed so that no source of light is directed toward any adjoining or nearby land used or classified for residential use. Lighting shall be designed to shield public streets and all other adjacent lands from direct or distracting glare, or hazardous interference of any kind. Vehicular use areas shall not be lighted at any other time than the hours of operation of the use that the parking is intended to serve, except for necessary security lighting. Parking lot lighting shall comply with the outdoor lighting standards of Sec. 6.6.H (Outdoor lighting standards).

(5) **Marking.** Except for parallel parking spaces, parking lots containing spaces for three (3) or more vehicles shall delineate each space by double stripes on each side of the space. All stripes shall be painted in white paint except for handicapped spaces which shall have blue stripes. The width of the painted stripe shall be four (4) inches. The separation from inside edge of stripe to inside edge of stripe shall be no less than eight (8) inches and no more than sixteen (16) inches. The effective width of the double stripes shall range from sixteen (16) inches to twenty-four (24) inches, measured from outside edge of stripe to outside edge of stripe. (See Figure 7.2-3 for an example). Marking of parallel parking spaces shall be as shown in either of the options in Figure 7.2-2.

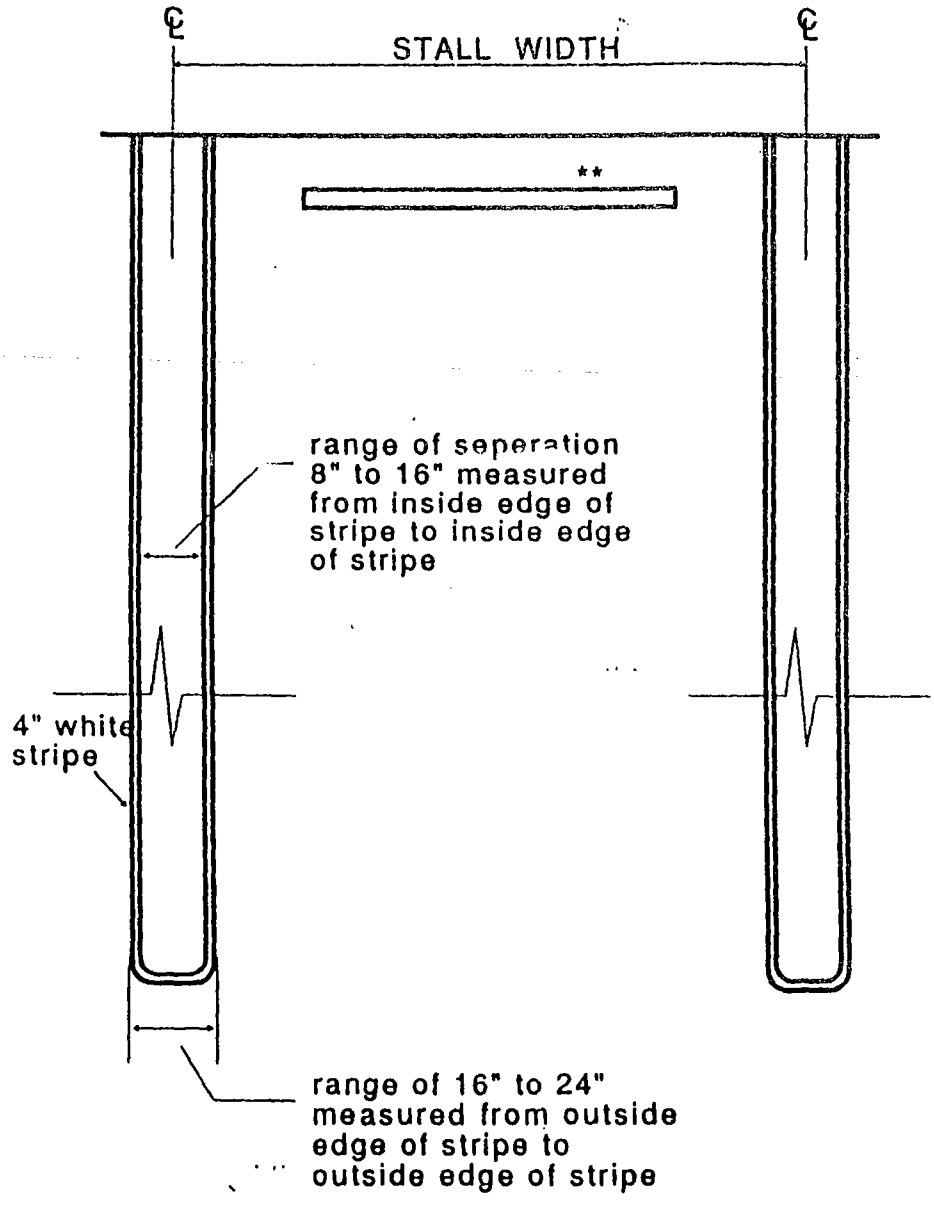
(6) **Signs.** Traffic control signs and other pavement markings shall be installed and maintained as necessary to insure safe and efficient traffic operation of all vehicular use areas. Such signage and marking shall conform with the Manual on Uniform Traffic Control Devices, Federal Highway Administration, U.S. Department of Transportation, as adopted by the FDOT, as revised.

(7) **Drainage.** Runoff from vehicular use areas shall be controlled and treated in accordance with all applicable agency standards in effect at the time an application is submitted.

(8) **Landscaping.** All vehicular areas shall be landscaped in accordance with the standards of Sec. 7.3 (Landscaping and Buffering).

(9) **Preservation.** Existing vegetation shall be preserved and incorporated into the landscaping for the vehicular use area.

FIGURE 7.2-3
STRIPING STANDARDS



13. Ingress and egress to vehicular use areas.

a. Ingress and egress. Each parking space shall have appropriate access to a street or an alley. Only dwelling units with no more than two (2) units shall be allowed backward egress from a driveway onto a local street. In all other cases, maneuvering and access aisle area shall be sufficient to permit vehicles to enter and leave the vehicular use area or specialized vehicular use area in a forward motion.

b. Dimensions of access ways. Access ways, except those associated with residential uses, shall be subject to the following dimensional standards.

TABLE 7.2-4
DIMENSION OF ACCESS WAYS

Minimum Width at Street*	Feet
One-Way	15
Two-Way	25
Two-way with Median**	40
Two-way without Median	35
Right Turn Radius* **	
Minimum	25
Maximum	30

* Measured along right-of-way line at inner limit of curbed radius sweep or between radius and near edge of curbed island at least fifty (50) square feet in area. The minimum width applies principally to one-way driveways. Widths exceeding these standards may be approved by the Zoning Director or the County Engineer, depending on the use.

** Excluding median. Twenty (20) foot unobstructed pavement shall be on both sides of median, excluding guard houses and landscape islands.

***On side of driveway exposed to entry or exit by right-turning vehicles.

14. **Queuing standards.** In addition to meeting the minimum off-street parking and loading standards of this section, all drive-through establishments shall meet the standards listed below:

a. Each queuing lane shall be clearly defined and designed so as not to conflict or interfere with other traffic using the site;

b. A by-pass lane a minimum of twelve (12) feet wide shall be provided if the parking lot is designed for one-way traffic flows. The by-pass lane shall be clearly designated and distinct from the queuing area; and

c. For each lane (not the total for the site), the minimum number of required queuing spaces, including the one accommodating the vehicle being serviced, shall be as provided in Table 7.2-4. Each queuing space shall be a minimum of ten (10) feet by twenty (20) feet in size. Unless otherwise indicated below, queuing shall be measured from the front of the stopped vehicle (that would be located at the point of ultimate service) to the rear of the queuing lane.

TABLE 7.2-5
MINIMUM QUEUING STANDARDS

Use	Number of Spaces
Drive-Through Financial Institution	
Teller Lanes	5
Automatic Teller Lanes	3
Drive-Through Restaurant	7
Minimum before Menu Board	4
Drive-Through Car Wash	
Automatic	5
Self-Service	3
Drive-Through Oil Change	4
Gasoline Pump at Service Station	30 Feet of Queuing at Each End of Pump Island
Drive-Through Convenience Store	3
Drive-Through Dry Cleaning or Laundry	3
Drive-Through General Retail	4
Commercial Parking Lot	3
Vehicular Inspection Station	15

15. Public, private or commercial parking lots.

a. General. Where permitted by a Class "B" conditional use, off-street parking lots and structures shall be allowed as the principal use. These parking lots shall not be contiguous to lands used or zoned for residential purposes. Parking spaces may be rented for parking. No other business of any kind shall be conducted on the lot, including repair, service, washing, display or storage of vehicles or other goods. Review of parking lots and structures shall consider the proposed operation of the lot. The standards of this section, including signage, maneuvering, and backup distances may be varied, based on the proposed operation.

b. Design. Plans for parking lots shall be drawn to a scale no smaller than one (1) inch equals fifty (50) feet and show the layout of the street connection and access ways, drainage provisions, signs, surfacing, curbs or barriers, street connections and access ways of lands located contiguous and directly across the street, and the location and type of landscaping.

c. Street connections. Street connections (entrances and exits) shall be located to present the least interference with traffic and the least nuisance on any adjacent street. The point of entrance control shall be located to provide four (4) car queuing (minimum of 80 feet) distance from the right-of-way. The location, size and number of entrances and exits shall be subject to the approval of the Development Review Committee.

16. Standards for parking structures.

a. General. All public or private parking garages may be used to meet off-street parking standards for any use or combination of uses, and such structures shall be considered accessory to the principal use. Garages shall be designed to meet or exceed the following standards. All public or private parking garages shall comply with the standards for surface parking lots with regard to marking, signage and minimum number of spaces to be provided.

b. Site plans. When the parking facilities are housed in an underground garage or a multi-storied structure or on the roofs of buildings, a Site Plan/Final Subdivision Plan shall be submitted thereunder for approval of interior traffic circulation, slope of ramp, ease of access and utilization of ramps, for parking space and aisle dimensions, proper traffic control signing and pavement marking for safe and efficient vehicular and pedestrian operation, for location of entrances and exits on public roads, for approval of sight distances at such entrances and exits and at corners of intersecting public roads, and for approval of the effective screening of the cars located in or on the parking structures from adjoining lands and from public roads.

c. Design standards.

(1) Module width standards. The unobstructed distance between columns or walls measured at any point between the ends of the parking aisle shall be as specified in Table 7.2-5.

TABLE 7.2-6
MINIMUM MODULE WIDTHS

Angle	Parking on Both Sides of Aisles	Parking on One Side of Aisle
90	60 feet one-or two-way aisle	43 feet one-or two way aisle
75	59 feet one-way aisle*	40 feet one-way aisle
60	53 feet one-way aisle*	34 feet one-way aisle

* Requests for reductions of unobstructed distances will be considered if the space and aisle dimensions specified in surface parking dimensions are met and the columns are not located at the rear of the parking spaces or interfere with the opening of doors.

(2) Minimum parking space widths. The minimum parking space width shall be nine (9) feet, provided that the minimum clear distances specified above are met.

17. Parking of vehicles and boats in residential districts. The following standards shall apply to the parking of vehicles, recreational vehicles, boats and trailers in the residential districts. For the purposes of this section, the AR-Agricultural Residential District shall not be considered a "residential" district.

a. General prohibition.

(1) On-street. No person shall park, store, or keep a commercial vehicle, recreational vehicle, boat or trailer, on any public street, or other thoroughfare or any right-of-way within any a residential district for a period exceeding one (1) hour in any twenty-four (24) hour period, each such period commencing at the time of first stopping or parking, unless a permit is first obtained from the Sheriff's Department.

(2) Off-street. It shall be unlawful for any owner of land in any residential district to park on, cause to be parked on, or allow to be parked on residentially zoned land any unlicensed vehicle, commercial vehicle, recreational vehicle, boat or trailer for a period exceeding one (1) hour in any twenty-four (24) hour period, each such period commencing at the time of first stopping or parking unless a permit is first obtained from the Sheriff's Department.

b. Exemptions.

(1) **Commercial vehicle.** One commercial vehicle per dwelling unit of not over one (1) ton rated capacity may be parked, unless all of the following conditions are met: vehicle is used by a resident of the premises; gross weight does not exceed ten thousand (10,000) pounds, including load; height does not exceed nine (9) feet, including any load, bed, or box; and total vehicle length does not exceed twenty six (26) feet.

(2) **Construction vehicles.** The prohibitions set out above in Sec. 7.2.C.17.a (General prohibition) shall not apply to the temporary parking of such vehicles on private land in residential districts where construction is underway, for which a current and valid building permit has been issued by the Building Director and the building permit is displayed on the premises.

(3) **Delivery and service vehicles.** The one (1) hour parking restriction set out above in Sec. 7.2.C.17.a (General prohibition) shall not apply to routine deliveries by tradesmen, or the use of trucks in making service calls, provided that such time in excess of one (1) hour is actually in the course of business deliveries or servicing.

(4) **Emergency repairs.** The restrictions set out above in Sec. 7.2.C.17.a (General prohibition) shall not apply to a situation where a large motor vehicle becomes disabled and, as a result of such emergency, is required to be parked within a residential district for longer than one (1) hour. Any large motor vehicle shall be removed from the residential district within twenty-four (24) hours, regardless of the nature of the emergency.

(5) **Outdoor storage of boats and recreational vehicles.** One (1) boat or boat trailer, with or without a boat, and one (1) recreational vehicle may be parked outdoors on a lot in a residential district provided that:

(a) The boat, boat trailer or recreational vehicle is owned and used by a resident of the premises;

(b) The boat, boat trailer or recreational vehicle is not parked in a required front yard or other area between the structure and the street except for the purpose of loading or unloading during a period of less than eight (8) hours, however, the Board of Adjustment may give variance relief from this requirement for either one (1) boat and boat trailer or one (1) recreational vehicle and neither may be greater than ten (10) feet in height or thirty (32) feet in length;

(c) If the boat, boat trailer or recreational vehicle is located in the side or rear yard, it shall be effectively screened from view of abutting lands by a masonry wall, ornamental fence or dense hedge planting at least six (6) feet in height;

(d) The boat, boat trailer or recreational vehicle is not used for living, sleeping or housekeeping purposes;

(e) The boat, boat trailer or recreational vehicle is operative and is currently registered, as required by state or federal law, if transportation of the vehicle is in compliance with Chapter 317, Fla. Stat.; and

(f) Vehicles on navigable waterways shall be exempt from the outdoor storage standards of this subsection.

(6) Indoor storage of boats and recreational vehicles. One (1) boat or boat trailer, with or without a boat, and one (1) recreational vehicle may be parked indoors on a lot in a residential district provided that:

(a) The boat, boat trailer or recreational vehicle is located within a garage or carport that is effectively screened on at least three (3) sides;

(b) No portion of the boat, boat trailer or recreational vehicle extends beyond the roofline;

(c) The boat, boat trailer or recreational vehicle is not used for living, sleeping or housekeeping purposes; and

(d) The boat, boat trailer or recreational vehicle is currently registered, as required by state or federal law, if transportation of the vehicle is in compliance with Chapter 317, Fla. Stat.

D. Off-street loading.

1. Computing loading standards.

a. Multiple uses. On lots containing more than one (1) use, and where the floor area used for each use is below the minimum for required loading spaces but the aggregate total floor area is greater than the minimum, off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required. In such cases, the Zoning Director may make reasonable requirements for the location of the required loading space.

b. Fractions. When calculation of the number of required off-street loading spaces results in a fractional number, a fraction of less than one-half (0.50) shall be disregarded and a fraction of one-half (0.50) or more shall be rounded to the next highest full number.

c. Floor area. Loading standards that are based on square footage shall be computed using gross floor area (GFA).

d. Unlisted uses or other cases of uncertainty. If there is uncertainty about the amount of loading space required by the provisions of this section as a result of indefiniteness about the proposed use, the maximum standard for the general type of use that is involved shall govern. Where the required number of loading spaces is not set forth for a particular use, and where there is no similar general type of use listed in this section, the Zoning Director shall determine the basis for the number of spaces to be provided by determining the off-street loading demand for the most similar use.

2. Loading space ratios. Off-street loading spaces shall be provided in accordance with the standards of the off-street parking and loading schedule in Table 7.2-1. The letters shown in the "loading" column of the schedule shall correspond to the following ratios:

a. Standard "A". One (1) space for the first five thousand (5,000) square feet of floor area, plus one (1) space for each additional thirty thousand (30,000) square feet of floor area;

b. Standard "B". One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional fifteen thousand (15,000) square feet of floor area;

c. Standard "C". One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional one hundred thousand (100,000) square feet of floor area; and

d. Standard "D". One (1) space for each fifty (50) beds for all facilities containing twenty (20) or more beds.

3. Location of spaces. Loading berths and related space shall be located directly adjacent to the building which requires designated loading space. Loading areas shall be proportionately distributed throughout the site.

4. Loading demand statement. All applications for new or increased use or capacity for nonresidential establishments shall include a statement outlining the use's projected normal demands for loading and unloading, and a plan showing the location on the lot of the off-street loading space to be provided, in accordance with the provisions of this section.

5. Relationship to streets and off-street parking areas.

a. A street or walkway shall not be used for loading or unloading materials.

b. An off-street loading area shall not be used to satisfy any off-street parking standards, and the location of the loading area shall not interfere with the free circulation of vehicles in the off- street parking area.

c. Where loading areas are directly adjacent to or integrated with an off-street parking lot, the Development Review Committee may require installation of physical barriers, such as curbing, fences, solid hedges, or other means for separation of loading areas from parking areas and pedestrian traffic.

6. Dimensional standards and design requirements. Required off-street loading spaces shall be subject to the following minimum dimensional standards:

a. Width. A single loading berth shall have a minimum width of fifteen (15) feet. Additional loading berths that lie alongside, contiguous to, and not separated from a first loading berth shall be a minimum of twelve (12) feet in width;

b. Length. All loading berths shall be a minimum of fifty-five (55) feet in length;

c. Maneuvering apron. An area equal to the width and length of the berth shall be provided for vehicle maneuvering directly behind the loading berth it is intended to serve;

d. Vertical clearance. A vertical clearance of at least fifteen (15) feet shall be provided throughout the berth and maneuvering apron; and

e. Distance from intersections.

(1) Distance. No loading space or berth shall be located within forty (40) feet of the nearest point of the edge of pavement or curb of any two (2) intersecting streets.

(2) Setback. The surfaced portions of all loading areas, excluding driveways, shall be setback at least twenty (20) feet from all front or side corner lines. When located at the rear of a building, a minimum five (5) foot setback from the property line of all land under separate ownership or control shall be required.

7. Entrance and exits. The location and design of entrances and exits shall be in accordance with Sec. 7.2.C.13 (Ingress and egress to vehicular use areas) and Sec. 7.7 (Driveways and Access).

8. Paving and drainage. All loading areas shall be paved in accordance with the provisions of Sec. 7.2.C.12.b (Paving and drainage design).

9. Access marking. Each off-street loading space shall be provided with safe and convenient access to a street, without it being necessary to cross or enter any other required loading space. If any loading space is located contiguous to a street, ingress and egress to the street side shall be provided only through driveway openings. The dimension, location and construction of these driveways shall be designed in accordance with the provisions of this section. In addition, off-street loading spaces which have three (3) or more berths shall have individual spaces marked, and spaces shall be so arranged that maneuvering to and from a loading space shall be on the same lot unless approved by the Development Review Committee. Maneuvering shall be permitted in an alley upon the approval of the Development Review Committee if surrounding uses are compatible with the subject use.

10. Reduction in required loading space. All required off-street loading spaces and their appurtenant aisles and driveways shall be deemed to be required space and shall not be encroached upon or reduced in any manner except upon approval by the Development Review Committee, in the following circumstances:

a. Reduction in number of berths.

(1) Change in use. The number of loading spaces may be proportionately reduced if the space is not needed as a result of a reduction in size or change in the nature of the use to which loading spaces are served.

(2) Administrative reduction. For uses which contain less then ten thousand (10,000) square feet of total floor area, the Development Review Committee may waive or reduce the loading standards whenever the character of the use is such as to make unnecessary the full provision of loading facilities and where such provision would impose an unreasonable hardship upon the use of the lot.

b. Reduction in size of berth. Reduced space dimensions shall be permitted upon a finding that all of the following standards have been met:

(1) The manner of operation proposed is such that spaces of the required dimensions are unnecessary because, the size, character, and operation of the use will not regularly involve service by motor vehicles which require the dimensions of an off-street loading berth, such as, but not limited to the following uses: bowling alleys and other recreational establishments, financial institutions, funeral chapel and funeral homes, nursing homes, offices, and personal service establishments;

(2) The uses are likely to continue or to be succeeded by others for which the same space dimensions will be adequate, or that any additional loading space necessary could be provided in a logical location without creating violations of other standards; and

(3) Any reduction provides for a minimum space length of fifteen (15) feet, a space width of at least twelve (12) feet, maneuvering apron of at least twenty (20) feet in length and twelve (12) feet in width, and a vertical clearance of ten (10) feet.

11. **Repair activities.** No motor vehicle repair work except emergency repair service, shall be permitted in any required off-street loading facility.

12. **Landscaping.** All off-street loading areas shall be landscaped in accordance with Sec. 7.3.

SEC. 7.3 LANDSCAPING AND BUFFERING.

A. **Purpose and intent.** The purpose and intent of this section is to promote the health, safety, and welfare of existing and future residents of Palm Beach County by establishing minimum standards for the installation and continued maintenance of landscaping and buffers within unincorporated Palm Beach County. The specific objectives of the section are as follows:

1. **Aesthetics.** To improve the aesthetic appearance of development through landscaping requirements that help to harmonize and enhance the natural and built environment;

2. **Environmental quality.** To improve environmental quality by maintaining permeable land areas essential to surface water management and aquifer recharge; reducing and reversing air, noise, heat, and chemical pollution through the biological filtering capacities of trees and other vegetation; promoting energy conservation through the creation of shade; reducing heat gain in or on buildings or paved areas through the filtering capacity of trees and other vegetation; reducing the temperature of the microclimate through the process of evapotranspiration; and encouraging the use of limited fresh water resources through the use of drought resistant plants;

3. **Water conservation.** To promote water conservation by encouraging xeriscaping and utilization of native and drought tolerant landscape material; utilization of water conserving irrigation practices; adherence to sound landscape installation standards and maintenance procedures that promote water conservation; ecological placement of landscape material; and utilization of natural areas and vegetation.

4. **Preservation of native plants and vegetation.** To encourage the preservation and planting of native vegetation and plants;

5. **Efficiency in land development.** To promote efficiency in the development of limited land resources by improving the compatibility of otherwise incompatible land uses in close proximity, particularly residential development that is adjacent to more intensive commercial and industrial development;

6. **Land values.** To maintain and increase the value of land by requiring minimum landscaping which becomes a capital asset;

7. Human values. To provide physical and psychological benefits to persons through landscaping, by reducing noise and glare, and by softening the harsher visual aspects of urban development;

8. Removal of prohibited plant species. To encourage the eradication or control of prohibited plant species which have become nuisances because of their tendency to disrupt or destroy native ecosystems; and

9. Improved design. To encourage innovative and cost-effective approaches to the design, installation and maintenance of landscaping, particularly those that promote energy, water conservation and incorporate areas of native vegetation.

B. Applicability. The provisions of this section shall be considered minimum standards and shall apply to all development in unincorporated Palm Beach County, except that development exempted in Sec. 7.3.C (Exemptions).

C. Exemptions. The following development shall be exempt from the standards of this section:

1. Enlargement or repair of single-family or duplex development. The enlargement or repair of one (1) single-family detached or duplex residence on a single lot;

2. Buildings or structures accessory to single-family or duplex development. The initial construction, enlargement or replacement of buildings or structures accessory to one (1) single-family or duplex residence on a single lot;

3. Vehicular use areas within or on top of a building. Vehicular use areas consisting exclusively of parking areas entirely within or on top of a structure. Parking structures within one hundred (100) feet of a public right-of-way or within one hundred (100) feet of a single-family district shall, however, provide planters at each level of the parking structure. The planter shall provide a total of one-half (0.5) square foot of planting area for each linear foot of facade per parking level. Planting areas may be arranged in linear fashion or clustered at intervals, and shall be provided with permanent irrigation to permit watering of plant materials. Planters shall be landscaped pursuant to the provisions of this section;

4. Bona fide agricultural production. Bona fide agricultural production activities;

5. Development that does not entail a substantial change in use. Existing development that does not entail a substantial change in use. If a substantial change in use occurs on the site of an existing development, the Tree planting and preservation standards of Sec. 7.3.E.1 and the Compatibility landscape buffer strip standards of Sec. 7.3.E.3.b shall apply; and

6. Development with site development or building permit approval. Development that has received a certified site plan or building permit approval prior to February 1, 1990.

D. Procedure.

1. General.

a. Prior to the issuance of a building permit or a paving permit for any development except a single-family dwelling or duplex residence, a landscape plan which has been prepared by and bears the seal of a landscape architect authorized to prepare landscape plans by chapter 481, part II (Landscape Architecture), of Florida Statutes, shall be submitted to, reviewed by, and approved by the department, pursuant to the terms of this section.

b. Prior to the issuance of a building permit or a paving permit for a single-family dwelling or duplex residence, a landscape plan which does not have be to prepared by or bear the seal of a landscape architect or other licensed professional shall be submitted to, reviewed by, and approved by the department, pursuant to the terms of this section.

2. Contents of proposed landscape plan. An applicant shall submit a proposed landscape plan to the zoning director. Each proposed landscape plan shall:

a. Be drawn to scale, including dimensions and distances;

b. Delineate existing and proposed parking spaces, access aisles, driveways, and other vehicular use areas;

c. Indicate, by diagram, the proposed location of water outlets, and by diagram or note, the location of sprinklers and any proposed sprinkler zones;

d. Designate by name and location the plant material to be installed or preserved in accordance with the standards of this section;

e. Identify and describe the location and characteristics of all other landscape materials to be used;

f. Show all landscape features, including areas of native vegetation required to be preserved by law, in context with the location and outline of existing and proposed buildings and other improvements upon the site, if any;

g. Indicate the condition of soils and the method of installation of all plant materials;

h. Include a tabulation displaying the relevant statistical information necessary for the department to evaluate compliance with the provisions of the Landscape Code, including gross acreage of the development, the area of preservation areas, the number of trees to be planted or preserved, the square footage of paved areas and such other information as the department may require;

i. Include, if relevant, a tree survey which shall be prepared by, and bears the seal of, a registered land surveyor licensed to practice in the State of Florida, drawn to a convenient scale, which shall include:

(1) Property boundaries;
(2) Easements;
(3) Rights-of-way;
(4) Existing of proposed buildings, structures, or other improvements, if any;
(5) Existing or proposed utility services, including septic tank drain fields;
(6) Bodies of surface water;
(7) The nature of adjacent land uses; and
(8) Protected trees or groupings of trees, and species of trees to be removed or relocated; in the case of groupings of trees, the predominant species mix and estimated number shall be identified; trees or areas of vegetation which are required to be preserved, such as mangroves or specimen trees, shall be delineated and identified; areas infested with prohibited or controlled plant species shall also be delineated and identified; and

j. Any other information that may be required by the department that is determined necessary to adequately review the proposed landscape plan.

E. Landscape standards.

1. Tree planting and preservation standards. The following tree planting and preservation standards shall apply to all development. They may be used to satisfy, in whole or in part, the standards of Sec. 7.3.E.2 (Interior of vehicular use areas); Sec. 7.3.E.3.b (Compatibility landscape buffer strips); any other special landscape buffer standards imposed by the Board of County Commissioners; and any landscape or vegetation standards for littoral zones of lakes. All other landscape standards of this section shall be in addition to these following standards. Trees planted pursuant to Sec. 7.3.I.1 (Right-of-way landscape) shall not be used to satisfy the standards of Sec. 7.3.E (Landscape standards).

a. Residential lot. One (1) tree shall be planted or preserved for every one thousand five hundred (1500) square feet of a residential lot or fraction thereof, excluding only areas of vegetation required to be preserved by law and preservation areas. No more than fifteen (15) new trees shall be required to be planted on any residential lot that is to be developed for one (1) single-family dwelling or one (1) duplex residence. See landscape and preservation standards in Secs. 7.3.D and 7.3.E excluding required buffer widths.

b. Nonresidential Lot. One (1) tree and three (3) shrubs shall be planted or preserved for every twenty-five hundred (2500) square feet of a nonresidential lot or fraction thereof, excluding only areas of vegetation required to be preserved by law and preservation areas. The minimum shrub planting standard is exclusive of shrubs or hedges required to be planted in perimeter buffers. See landscape and preservation standards in section 7.3.D. and 7.3.E. excluding required buffer widths.

c. Planned development district. One (1) tree shall be planted or preserved for every one thousand five hundred (1,500) square feet of a residential lot and for every two thousand five hundred (2,500) square feet of a nonresidential lot or fraction thereof within a planned development, excluding only areas of vegetation required to be preserved by law and preservation areas. The number of trees required to be planted or preserved in a phase, or subdivision plan of a planned development shall be a proportion of the total number of trees required to be planted in the overall planned development. (This proportion shall be determined by comparing the area of the phase or subdivision plan to the area of the entire planned development as shown on its current, controlling preliminary development plan). Areas of vegetation required to be preserved by law shall be excluded from the calculation of the area of a phase or subdivision plan of the planned development. Preliminary development plans and subdivision plans shall indicate the minimum number of trees to be planted. This figure is intended to be suggestive of the total number of trees which shall be planted or preserved in each subarea. The actual number of trees to be planted or preserved on individual lots will be established on individual building plans.

d. Applicability of tree planting and preservation standards to areas regulated by Federal or State law: Certain uses such as airports and stockades are subject to Federal and State laws that regulate and/or prohibit the planting of trees within certain areas on site because of the function of the use. The identified land area subject to the following criteria may be excluded from the area to be included in the calculation of tree planting requirements:

(1) There are public safety issues prohibiting the placement of trees; and

(2) Federal or State law prohibits the planting of trees.

This provision is not intended to preclude preservation of required vegetation or the planting of trees within vehicular use areas, compatibility buffers, public use areas or along rights-of-way.

e. Use of site specific planting materials. Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for their growth habits. Plants used in the landscape design shall to the greatest extent possible be:

(1) Appropriate to the conditions in which they are to be planted, for instance:

(a) Plant materials installed on a berm comprised of sandy materials should be able to tolerate reduced water conditions;

(b) Plant materials installed in locations where the predominate soil type is well-draining sands should be able to tolerate reduced water conditions;

(c) Plant materials installed around retention/detention ponds or in swales should be able to tolerate wet conditions caused by poorly draining soils; and

(d) Plant materials installed in locations where the predominate soil type is marly, mucky, has a hardpan layer or is one of many other poorly draining soils, shall be plant materials that are able to tolerate wet conditions.

(2) Have non-invasive growth habits;

(3) Encourage low maintenance, high quality design;

(4) Be otherwise consistent with the intent of this section.

2. Interior of vehicular use areas. The interior of vehicular use areas shall be subject to the following minimum planting and maintenance standards. Planting within landscape buffer strips required by Sec. 7.3.E.3 (Landscape buffer strips), shall not be used to satisfy the interior of vehicular use area landscape standards. The gross area of landscape buffer strips that exceed the minimum standards of Sec. 7.3.E.3 (Landscape buffer strips), may, however, be credited to satisfy the interior landscape standards of this subsection.

a. Off-street parking. Off-street parking areas shall be landscaped in accordance with one (1) of the following alternatives:

(1) Parking areas without 4 or more spaces that intersect. For parking areas without four (4) or more parking spaces that intersect and for parking areas with staggered parking, the following standards shall apply:

(a) Landscape. A minimum of forty (40) square feet of landscaping for each parking space shall be provided within the interior of an off-street parking area and between buildings and vehicular use areas, excluding loading areas. If any interior landscaping is transferred to the perimeter of the site, then fifty (50) square feet of landscaping for each parking space is required, pro-rated on amount transferred. At least one (1) tree shall be planted in each terminal island and interior island. Any combination of landscaped islands, median strips or planting areas may be used to satisfy the standards of this section;

(b) **Mandatory terminal island design.** Each row of parking spaces shall be terminated by landscaped islands which measure not less than five (5) feet in width and not less than fifteen (15) feet in length;

(c) **Mandatory interior island design.** Interior landscape islands shall be provided within each row of parking spaces. A minimum of one (1) interior island shall be provided for every twelve (12) parking spaces or fraction thereof. Landscaped interior islands shall measure not less than five (5) feet in width. The length of interior islands shall be no less than the minimum required depth of the parking space;

(d) **Optional divider median design.** Landscaped divider medians may be used to meet interior landscape standards. If divider medians are used, they shall form a continuous landscaped strip between abutting rows of parking spaces. The minimum width of a divider median shall be ten (10) feet. One (1) tree shall be planted for each thirty (30) feet of divider median, or fraction thereof. Trees in a divider median may be planted singly or in clusters, with a maximum spacing of sixty (60) feet on center. The landscaped divider median may serve as the first two and one-half (2.5) feet of a parking space, with wheel stops serving as curbing, such that the effective depth of the paved parking space is reduced by two and one-half (2.5) feet.;

(e) **Additional landscape treatment.** All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, ground cover, shrubs, or other appropriate landscape treatment. Sand or pavement shall not be considered appropriate landscape treatment; and

(f) **Curbing.** Terminal islands, interior islands and optional divider medians shall be surrounded with a continuous, raised curb which meets the Landscape Protection and Curbing Standards of this section. These curbing standards may be waived for portions of divider medians which directly abut parking spaces using wheel stops. Landscape island and median strip width shall be measured from the inside edge of the curb.

(2) Parking areas with 4 or more spaces that intersect. In off-street parking areas that contain four (4) or more parking spaces that intersect, landscaping shall be provided in accordance with the following minimum landscape standards or the landscape standards of Sec. 7.3.E.2.a.(1) (Parking areas without 4 or more spaces that intersect). Any combination of interior landscape island, median strip or grade level tree planting area may be used to satisfy these requirements. Parking areas with staggered parking shall be landscaped in accordance with Sec. 7.3.E.2.a.(1) (Parking areas without 4 or more spaces that intersect).

(a) Mandatory terminal island design. Each row of parking spaces shall be terminated by landscaped islands which measure not less than five (5) feet in width and at least fifteen (15) feet in length. At least one (1) tree shall be planted in each terminal island.

(b) Interior grade-level tree planting area design. Trees required to be planted by this subsection shall be distributed throughout the interior of an off-street parking area to provide shading of parked motor vehicles. Trees shall be planted with a separation of no more than twenty (20) feet on center. Grade level tree planting areas shall be located at the common intersection of four (4) parking spaces. The minimum area of a tree planting area shall be twenty (20) square feet, and the minimum dimensions shall be four (4) feet by five (5) feet. Trees shall be planted on center at the point of intersection of the four (4) parking spaces. The ground within the tree planting area shall receive appropriate landscape treatment, including mulch or ground cover.

b. Other vehicular use areas used by the public. For vehicular use areas that are not used as off-street parking areas, but which do serve access, circulation and temporary vehicle storage needs of the public (e.g., access ways in planned developments; stacking and queuing areas in service stations, banks and drive-in restaurants; and outdoor retail sales and display of new and used vehicles), the following minimum landscape standards shall apply. These standards shall also apply to vehicular use areas used for non-public storage of new or used motor vehicles or boats; local, suburban and inter-urban bus terminals and service facilities; and motor freight terminals which are not normally open to the public. This subsection shall apply only to that portion of a lot that is actually used for specialized vehicular uses. Employee parking lots shall be considered public vehicular use areas.

(1) Landscape. A minimum of fifteen (15) percent of the gross paved area of such vehicular use area that is open to the public, but that is not used for off-street parking, shall be devoted to interior landscaping.

(2) **Placement of landscape materials.** The interior landscaping required by this subsection shall be installed in a manner that mitigates negative use impacts by providing adequate buffering. If the landscaped area is moved to the perimeter of the lot, it shall be designed as an integral part of landscape buffers. One (1) additional tree shall be planted for each two hundred fifty (250) square feet of landscape area transferred to the landscape buffer area. The landscaped area may be designed as a divider median strip to accommodate a minimum of one (1) tree for each thirty (30) linear feet of divider median, or fraction thereof.

c. **Tree and shrub maintenance.** Trees planted in vehicular use areas shall be allowed to grow to a mature height and a full canopy. Pruning shall be limited to periodic trimmings (see Sec. 7.3.H.4, Tree pruning) to maintain the health of the trees or shrubs.

3. **Landscape buffer strips.** Landscape buffer strips shall be installed and maintained in accordance with the following standards.

a. **Streets and interior lot lines.** Where property lines abut streets or the interior lot line of an abutting property, the following standards shall apply:

(1) **Width of landscape buffer strips that abut streets.** The width of the landscape buffer strip abutting streets shall depend on the width of the street's ultimate right-of-way as referenced by Table 7.3-1.

(2) **Planned districts.** A Planned Development District's perimeter landscape area varies depending upon the type of Planned Development District selected, see Sec. 6.8, Planned Development District Regulations.

TABLE 7.3-1
WIDTH OF BUFFER STRIPS
DEVELOPMENTS OF LESS THAN 15 ACRES

Width of Ultimate Right-of-Way[1]	Minimum Width of Landscape Buffer Strip
0-99 Feet[2]	10 Feet
100+ Feet[3]	15 Feet

Notes:

[1] The width of the ultimate right-of-way shall be determined by reference to the Traffic Circulation Plan Map of the Palm Beach County Comprehensive Plan, as amended. Street classifications corresponding to right-of-way widths for non-thoroughfare plan street classifications shall be determined by reference to Article 8, Chart 8.22.2, Minor Streets

[2] Corresponds to access easements, marginal access roads, local streets, or collector streets. It includes a limited number of substandard arterial streets which have been incorporated into the County road system.

[3] Corresponds to Arterial Street or Expressway.

(3) Width of landscape buffer strips that abut interior lot lines. The width of the landscape buffer strip adjacent to an interior lot line of an abutting land shall be five (5) feet.

(4) Length. The landscape buffer strip shall extend along the length of the boundary abutting right-of-way, and along the length of the property line abutting adjacent property. The landscape buffer strip may be traversed by access ways as necessary to comply with the standards of this section, Art. 8 (Subdivision standards), and any other County Codes.

(5) Tree planting. One (1) tree shall be planted or preserved for each three hundred (300) square feet of required landscape buffer strip. In calculating the number of trees to be planted, fractional distances shall be rounded down. The width of access ways which traverse required landscape strips shall be included in the calculation of linear dimension. The trees and plants shall comply with the following standards:

(a) **Tree height.** The minimum height of trees planted or preserved within required landscape buffer strips shall be ten (10) feet; and

(b) **Tree spacing.** Trees in a landscape buffer strip may be planted in clusters. The maximum spacing of trees in landscape buffer strips abutting dedicated rights-of-way shall not exceed sixty (60) feet on center. The spacing of trees in landscape buffer strips abutting interior lot lines shall not exceed thirty (30) feet on center.

(6) **Landscape barriers.** A hedge, wall, fence, berm, or other landscape barrier shall be installed and maintained within the landscape buffer strip. Unless otherwise provided in this section, the barrier shall be no less than three (3) feet in height within a maximum of two (2) years after installation. The barrier shall be no more than twelve (12) feet in height for commercial uses, and five (5) feet in height in the front yard and eight (8) feet in height in the side and rear yards for residential uses.

(a) **Hedges.** If a hedge is used as an element of the landscape barrier, plants shall be selected which comply with the Plant Material Standards of Section 7.3.F. If the placement of the hedge conflicts with a pre-existing dedicated easement, the hedge shall not encroach the easement unless the provisions of Sec. 6.5.H (Easement encroachment) are satisfied.

(b) **Non-living landscape barriers in interior landscape buffer strips.** If walls, fences, or other non-living barriers are used as elements of the landscape barrier, a minimum of one (1) shrub or vine shall be planted for each ten (10) linear feet of required landscape barrier. If, upon planting, shrubs or vines are not of sufficient height to be clearly visible above the top of the landscape barrier, the shrubs or vines shall be planted on the outside of the barrier.

(c) **Non-living barriers in landscape buffer strips adjacent to a right-of-way.** If a wall or fence or other non-living barrier is used, they shall be located on the interior edge of the required landscape buffer strip with the required landscaping located between the wall, fence or other non-living barrier and the right-of-way. If the placement of the wall, fence or non-living barrier conflicts with a pre-existing dedicated easement, the wall, fence or non-living barrier shall not encroach the easement unless the provisions of Sec. 6.5.H (Easement encroachment) are satisfied.

(d) **Earth berms.** Earth berms may be used only when installed in conjunction with sufficient plant materials to satisfy the provisions of this section. The slope of a berm shall not exceed a ratio of three-to-one (3:1).

(7) **Additional landscape treatment.** The remainder of the landscape buffer strip shall be landscaped with grass, ground cover, or other appropriate landscape treatment. Sand or pavement shall not be considered appropriate landscape treatment.

b. **Compatibility landscape buffer strips.** A landscape buffer strip shall be installed for residential and commercial developments, other than Planned Development Districts, prior to the issuance of the first certificate of occupancy or certificate of completion, in accordance with the requirements of Table 7.3-3. For a phased residential development, the buffer strip shall be installed along the entire perimeter of each phase. Commercial developments, regardless of their phasing, shall install their entire buffer strip and wall as required by Table 7.3-3 after completion of on-site paving and drainage and prior to building construction. The buffer strips shall be maintained and preserved along the entire length of the property line between the incompatible use or district abutting the district or development.

(1) **Width.** The required width of landscape buffer strips separating incompatible land uses and Zoning Districts shall depend on the type of alternative strip required, as follows:

TABLE 7.3-2
WIDTH OF COMPATIBILITY BUFFER STRIPS

Landscape Strip	Width
Alternative 1	Five (5) Feet
Alternative 2	Five (5) Feet
Alternative 3	Ten (10) Feet
Alternative 4	Twenty-Five (25) Feet

The width of landscape buffer strips separating incompatible land uses shall not be calculated to include utility easements.

(2) **Tree planting.** Within all required compatibility landscape buffer strips, trees shall be installed and maintained, or preserved, in accordance with the following standards:

(a) In required compatibility buffer strips for proposed nonresidential uses abutting residential development or residential districts, a minimum of one (1) tree shall be planted for each twenty (20) linear feet of abutting land line, or fraction thereof; or

(b) In required buffer strips separating two (2) or more residential developments or districts or two (2) or more nonresidential developments or districts, a minimum of one (1) tree shall be planted for each thirty (30) linear feet of abutting land line, or fraction thereof.

TABLE 7.3-3
COMPATIBILITY BUFFER OPTIONS

Proposed Zoning or Use	Existing Zoning or Use					
	Rural Residential	Single-Family	Multi-Family	Commercial or Office	CRE	Industrial
RSER	1,2,3	1,2,3				
CN	1*	1*	1*			
CLO, CC, CHO, CG	1,2,3	1,2,3	1,2,3			
Conditional Use	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4
CRE	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	
SA	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3
Industrial Zoning	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	
PO	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	
Water and Wastewater Treatment Facilities	4	4	4	4	4	
Electrical Power Substations	4	4	4	4	4	
Type III Excavation	4	4	4	4	4	4

*Alternative 1, but a 10-foot width is required.

Alternative 1 Five (5) foot wide landscape buffer strip, with a six (6) foot wall and ten (10) foot tall trees spaced no more than twenty (20) feet on center between nonresidential/residential and no more than thirty (30) feet on center between nonresidential/nonresidential or residential/residential.[1]

Alternative 2 Six (6) foot wall and ten (10) foot tall trees planted in grade level planters, spaced no more than twenty (20) feet on center between nonresidential/residential and no more than thirty (30) feet on center between nonresidential/nonresidential or residential/residential.[1]

Alternative 3 Ten (10) foot wide landscape buffer strip, with a six (6) foot wall, hedge, fence, berm or combination thereof and ten (10) foot tall trees spaced no more than twenty (20) feet on center between nonresidential/residential and no more than thirty (30) feet on center between nonresidential/nonresidential or residential/residential.[1]

Alternative 4 Twenty five (25) foot wide landscape buffer strip, and two rows of twelve (12) foot tall trees spaced no more than twenty (20) feet on center between nonresidential/residential and no more than thirty (30) feet on center between nonresidential/nonresidential or residential/residential. The Board of County Commissioners shall have the option of requiring any combination of Alternatives 1,2,3 or 4 buffer requirements for proposed uses to which Alternative 4 standards apply.[56]

[1] Animal migration openings shall be provided when there are two preserve areas located on either side of a property line which requires a landscape barrier containing a wall or fence. Pedestrian access openings may be required by the Zoning Division.

(3) Tree spacing requirements. Trees within Compatibility Landscape Strips shall be planted with a maximum spacing of twenty (20) feet on center between nonresidential and residential developments, thirty (30) feet on center between abutting nonresidential developments and thirty (30) feet on center between abutting residential developments. For Compatibility Landscape Strip number two (2), required trees shall be planted along the lot perimeter in grade level tree planting areas spaced at no more than thirty (30) feet on center. The minimum area of a tree planting area shall be twenty (20) square feet, and the minimum dimensions shall be four (4) feet by five (5) feet. The ground within the tree planting area shall receive appropriate landscape treatment, including mulch or ground cover. For Compatibility Landscape Strip number four (4), trees shall be planted within the strip in double rows.

(4) Landscape barriers. A landscape barrier shall be installed within compatibility buffer strips in accordance with the following standards:

(a) For landscape buffer strips one (1) and two (2), a solid concrete block (CBS) and steel-reinforced wall, with a continuous footing, or an alternative approved by the Development Review Committee, shall be installed. The minimum height of the wall shall be six (6) feet, as measured from the highest grade on either side of the abutting lots. The exterior side of the wall shall be given a finished architectural treatment which is compatible with and harmonizes with abutting development; and

(b) For landscape buffer strip three (3), a landscape barrier consisting of a hedge/wall combination shall be installed. The landscape barrier shall present a continuous, solid visual screen at least six (6) feet in height within two (2) years of installation, with pedestrian openings provided for connections between internal and external pedestrian/bicycle circulation routes.

c. Perimeter landscape and edge areas for planned developments. Planned Developments shall be landscaped along their perimeters, land use zones and incompatible land uses in accordance with the standards found in Sec. 6.8.A.23, Planned Development Regulations.

d. Alternative use of native vegetation. Existing native vegetation shall be deemed to satisfy the landscape buffer standards, in total or in part, upon the approval of the Development Review Committee. In determining whether native vegetation satisfies the buffer standards, the following shall be considered:

(1) The effectiveness of the visual screening which will be provided;

(2) The quality of the vegetation being preserved;

(3) The proposed native buffer makes use of existing native vegetation, which may include trees. If no trees exist in the proposed buffer, no additional trees will be required if adequate screening is provided; and

(4) Native vegetation from areas of the site to be developed may be relocated to the buffer area.

4. **Tree credits.** A native wetland tree planted in a littoral zone, a preserved native tree, or drought-tolerant tree on-site, that meets the standards specified in this section may be substituted for any of the trees required to be planted by Sec. 7.3.E.1 (Tree planting and preservation standards), Sec. 7.3.E.2 (Interior of vehicular use areas) or Article 7. or by the planned development standards of Sec. 6.8 or the provisions of Sec. 6.7, supplemental regulations for affordable housing.

a. **Tree surveys.** Credit shall be granted for preservation of existing native or drought-tolerant trees if the application is accompanied by a tree survey.

b. **Tree credit formula.** Existing native wetland trees in littoral zones or drought-tolerant trees shall be credited according to the formula in Table 7.3-4. Fractional measurements shall be attributed to the next lowest category.

TABLE 7.3-4
TREE CREDITS

Crown Spread of Tree	Or	Diameter of Tree at 4.5 Feet Above Grade	=	Credits
90 Feet or Greater	or	36 inches or more	=	7
60-89 Feet	or	30-35 inches	=	6
50-59 Feet	or	26-29 inches	=	5
40-49 Feet	or	20-25 inches	=	4
30-39 Feet	or	13-19 inches	=	3
20-29 Feet	or	8-12 inches	=	2
10-19 Feet	or	2-7 inches	=	1
Less than 10 Feet	or	Less than 2 inches	=	0

c. **Trees excluded from credit.** No tree credits shall be permitted for the following types of trees:

(1) **Required preservation.** Trees which are required to be protected by law, or trees located in required preservation areas;

(2) **Not protected during construction.** Trees which are not properly protected from damage during the construction process, as provided in Sec. 7.3.H.6.c (Tree protection);

(3) **Prohibited or controlled species.** Trees which are classified as prohibited or controlled species;

(4) **Dead or diseased trees.** Trees which are dead, dying, diseased, or infested with harmful insects; or

(5) **Recreation tracts, golf courses, or similar subareas within planned developments.** Trees which are located within recreation tracts, golf courses or similar subareas within planned developments which are not intended to be developed for residential, commercial, or industrial use.

5. **Tree replacement.** When existing native or drought tolerant trees are removed or damaged without a vegetation removal permit during property development, they shall be replaced in accordance with the tree replacement credit standards of Table 7.3-5.

TABLE 7.3-5
TREE REPLACEMENT CREDITS

Crown Spread of Tree	Or	Diameter of Tree at 4.5 Feet Above Grade	=	Replacement Credit
90 Feet or Greater	or	36 inches or more	=	7
60-89 Feet	or	30-35 inches	=	6
50-59 Feet	or	26-29 inches	=	5
40-49 Feet	or	20-25 inches	=	4
30-39 Feet	or	13-19 inches	=	3
20-29 Feet	or	8-12 inches	=	2
10-19 Feet	or	2-7 inches	=	1
Less than 10 Feet	or	Less than 2 inches	=	0

Replacement trees shall be 100% native and shall meet requirements of Sec. 7.3.F.

6. **Alternative landscape betterment plans.** Applicants shall be entitled to demonstrate that the intent of this section can be more effectively met, in whole or in part, through an Alternative Landscape Betterment Plan. An Alternative Landscape Betterment Plan shall be reviewed by the Development Review Committee, and, if approved, shall be substituted, in whole or in part, for a landscape plan meeting the express terms of this section.

a. **Submittal requirements.** Applicants seeking approval of an Alternative Landscape Betterment Plan shall be subject to the following standards.

(1) Each Alternative Landscape Betterment Plan shall be clearly labeled as an "Alternative Landscape Betterment Plan"; and

(2) Each Alternative Landscape Betterment Plan shall clearly delineate and identify the deviations permitted from the provisions of this section.

b. **Review standards.** In reviewing proposed Alternative Landscape Betterment Plans, the Development Review Committee shall give favorable consideration to exceptional landscape designs which attempt to preserve and incorporate native existing vegetation in excess of minimum standards and plans that demonstrate innovative design and use of plant materials. Certain uses such as airports, power plants and stockades function in a manner which is contrary to the public benefit of the planting of trees on-site in accordance with Section 7.3.E.1 of this Code and which tree planting is regulated by Federal or State law. In such instances, the BCC or DRC, whichever is appropriate, may review and approve the planting of a portion of the minimum tree planting requirement off-site where there is a direct public benefit, such as but not limited to, places such as public parks, libraries, streets and medians within the community that the proposed use serves. A minimum number of trees shall be planted on-site to landscape public areas, vehicular use areas, rights-of-way buffers, building foundations planting, and to buffer incompatible land uses as appropriate.

The landscape betterment plan shall include an off-site planting plan(s) for the proposed tree planting locations including documentation of the approval and acceptance of such plan by the appropriate regulating agencies.

The Development Review Committee shall not approve an Alternative Landscape Betterment Plan if it:

(1) Results in the planting or preservation of fewer trees than the minimum number required by the standards of Sec. 7.3.E.1 (Tree planting and preservation standards);

(2) Violates the terms or conditions of any Code or ordinance of Palm Beach County. In particular, an Alternative Landscape Betterment Plan shall not be a substitute for any variance required to be obtained by this Code; or

(3) Is not as good as a plan prepared in strict compliance with the other standards of this section, or is otherwise inconsistent with the intent of this subsection to encourage exceptional or unique landscape designs.

F. Tree and landscape material standards. The following standards shall be considered the minimum required planting standards for all trees and landscape material.

1. General. Trees and plants used in landscape design pursuant to this section shall, to the greatest extent possible, be drought tolerant, appropriate for the ecological setting in which they are to be planted, have non-invasive growth habits, encourage low maintenance and high quality landscape design, be commercially available, and be otherwise consistent with the purpose and intent of this section.

2. Plant quality. Plants installed pursuant to this section shall conform to or exceed the minimum standards for Florida Number 1, as provided in the most current edition of "Grades and Standards for Nursery Plants, Parts I and II", prepared by the State of Florida Department of Agriculture and Consumer Services. Another accepted standard may be used if it equals or exceeds the quality of Florida Number 1.

3. Tree and plant species list. A recommended Tree and Plant Species list shall be developed, periodically revised, and distributed to the public by the PZB Department as an informational guide for the selection of tree and plant species which meet the standards of this section. The recommended Tree and Plant Species List shall also identify plant species which shall be prohibited from being planted in required landscape areas. The standard used to identify these prohibited tree and plant species shall be based upon the general intent of this section.

4. Artificial plants. No artificial plants or vegetation shall be used to meet any standards of this section.

5. Drought-tolerant plants. At least twenty-five (25) percent of the plants used to satisfy the standards of this section shall be classified as very drought-tolerant in the most recent edition of the South Florida Water Management District's *Xeriscape Plant Guide*.

6. Tree diameter and height.

   a. Vehicular use areas. Immediately upon planting, trees shall be a minimum of ten (10) feet in height with a minimum diameter of two (2) inches measured at a point which is at least four and one-half (4 1/2) feet above existing grade level.

   b. Perimeter buffers. Immediately upon planting, trees shall be a minimum of twelve (12) feet in height with a minimum diameter of two and one-half (2 1/2) inches measured at a point which is at least four and one-half (4 1/2) feet above existing grade level.

7. Tree crown and canopy.

a. Vehicular use areas. Required trees shall have a minimum of four (4) feet of clear trunk and a minimum five (5) foot canopy spread, except as otherwise noted. The diameter spread of the canopy shall be determined by the average canopy radius at three (3) points measured from the trunk to the outermost branch tip.

b. Perimeter buffer areas. Required trees shall have no minimum clear trunk requirements and a minimum six (6) foot canopy spread, except as otherwise noted. The diameter of spread of the canopy shall be determined by the average canopy radius at three (3) points measured from the trunk to the outermost branch tip.

8. Required tree species. A minimum of fifty (50) percent of all trees required to be planted by this section shall be native species. A minimum of seventy-five (75) percent of all trees that are required to be planted in the interior of vehicular use areas shall be shade trees, as indicated on the recommended tree and plant species list.

9. Palm trees. Palms planted in landscape buffers shall be installed in groups of no less than three (3). Each group of three (3) palms in a buffer strip shall be considered to be one (1) tree. In the case of species of palms which characteristically grow in clumps, each clump shall be considered to be one (1) tree. Each palm used in interior planting shall be considered to be one (1) tree. Palms planted in the interior of vehicular use areas shall be an appropriate species which when mature will not interfere with required lighting or other land development regulations.

10. Tree species mix. When more than ten (10) trees are required to be planted to meet the standards of this section, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted is indicated in Table 7.3-5. Species shall be planted in proportion to the required mix. This species mix standard shall not apply to areas of vegetation required to be preserved by law.

TABLE 7.3-5
TREE SPECIES MIX

Required Number of Trees	Minimum Number of Species
11-20	2
21-30	3
31-40	4
41+	5

11. Hedges and shrubs. A minimum of fifty (50) percent of all hedges and shrubs required to be planted by this section shall be native species. Hedges and shrubs shall be a minimum of twenty-four (24) inches in height immediately upon planting, and spaced at a maximum of twenty-four (24) inches on center. Hedges shall form a solid continuous visual screen of at least three (3) feet in height within two (2) years after the time of planting.

12. Vines. A minimum of fifty (50) percent of all vines required to be planted by this section shall be native species. Vines shall have a minimum of five (5) runners, each a minimum thirty (30) inches in length immediately upon planting. Vines may be used in conjunction with fences, screens, or walls to meet physical barrier standards. If vines are used in conjunction with fences, screens, or walls, their runners will be attached to the fence, screen, or wall in a way that encourages proper plant growth.

13. Ground treatment. The ground area within required landscaped areas which is not dedicated to trees, vegetation, or landscape barriers shall receive appropriate landscape treatment and present a finished appearance and reasonably complete coverage upon planting. The following standards shall apply to the design of ground treatment:

a. Ground cover. A minimum of fifty (50) percent of all ground cover required to be planted by this section shall be native species. Ground cover may be planted in lieu of lawn and turf grass in conjunction with planting of trees, shrubs, or hedges. Ground cover shall provide a minimum of fifty (50) percent coverage immediately upon planting or at time of inspection and one hundred (100) percent coverage within three (3) months after planting.

b. Mulch. Mulch shall be installed and maintained at a minimum depth of three (3) inches on all planted areas except ground covers.

c. Pebbles and egg rock. Pebbles or egg rock may be used in a limited way as a ground treatment in areas where drainage is a problem.

d. Lawn and turf grass. Grass areas shall be planted with species suitable as permanent lawns in Palm Beach County. Grass areas may be sodded, plugged, sprigged, or seeded, provided that solid sod shall be used in swales, rights-of-way or other areas subject to erosion. In areas where grass seed is used, nursegrass seed shall also be sown for immediate effect, and maintenance shall be provided until coverage is complete. Because of their drought resistant characteristics, it is recommended that the Bahia grass species be used. Use of drought-tolerant ground cover instead of lawn and turf grass is encouraged where feasible.

e. Native vegetation areas. Ground treatment is not required in areas of native vegetation.

14. Prohibited plant species. The following plant species shall not be planted:

a. Melaleuca quinquenervia (commonly known as Punk Tree, Cajeput, or Paper Bark);

b. Schinus terebinthifolius (commonly known as Brazilian Pepper or Florida Holly);

c. Casuarina trees (commonly known as Australian Pine); or

d. Acacia auriculaeformis (commonly known as Earleaf Acacia).

15. Eradication of prohibited plant species. Each Landscape Plan (or plot plan for single-family or duplex uses) or Alternative Landscape Betterment Plan required or permitted shall include a program to eradicate and prevent the reestablishment of prohibited plant species. A phased eradication program may be approved by the Development Review Committee in instances where a prohibited species is required to be removed from the perimeter of a site on which a use is proposed that is incompatible with the use of adjoining land. The eradication program shall specify the planting program for any required landscaping and the time frames in which the prohibited plant species is to be removed, see Sec. 7.5, Vegetation Protection;

16. Controlled plant species. The following plant species have a tendency to become nuisances if they are not properly controlled. These species may be planted or maintained under controlled conditions provided that they are installed or cultivated according to the following standards:

a. Casuarina species hedges (australian pine). Casuarina species may be maintained as a hedge if it was planted prior to February 1, 1990. A casuarina hedge shall be constantly maintained and shall not exceed twelve (12) feet in height;

b. Ficus species. Ficus species may be planted as individual trees provided that they are no closer than fifteen (15) feet from any structure or utility. Ficus species planted within fifteen (15) feet of any structure or utility shall be permitted only if they are:

(1) Contained in a planter approved by the Development Review Committee; or

(2) Maintained as hedge which is constantly cultivated and does not exceed twelve (12) feet in height.

c. Grevillea robusta (silk oak), Bischofia javanica (toog) and Dalbergia sisoo (rosewood). These species may be planted, but cannot be counted for more than ten (10) percent of the total number of trees required by this section.

G. Water conservation. All Landscape Plans shall be required to demonstrate compliance with the water conservation standards by obtaining a minimum score of thirty (30) points from the water conservation point scale identified in Table 7.3-6.

TABLE 7.3-6
WATER CONSERVATION POINT SCALE

Technique/Design Feature	Points
Moisture-Sensing Controller (other than rainswitch)	5
Drip/Trickle/Micro Irrigation System	
25 - 50 percent of system	5
51 - 75 percent of system	7
76 -100 percent of system	10
Irrigation Quality Effluent Irrigation	
25 - 50 percent of site	10
51 - 90 percent of site	20
91 -100 percent of site	30
Florida Native Landscape	
25 - 50 percent of landscape area	10
51 - 90 percent of landscape area	20
91 -100 percent of landscape area	30
Required Trees, Very Drought-Tolerant	
26 - 50 percent	5
51 -100 percent	10
Extra Shade Trees, Very Drought-Tolerant	
20 - 50 percent more trees than required	10
51 -100 percent more trees than required	20
Sod/Turf Area Alternatives	
26 - 50 percent of permitted sod/turf area	5
51 -100 percent of permitted sod/turf area	10
Required Shrubs, Very Drought-Tolerant	
26 - 50 percent	5
51 -100 percent	10

Notes to Table 7.3-6:

Florida Native Landscape may be preserved or reestablished. Reestablished Florida Native Landscape must include trees, understory and ground cover, with no more than fifty (50) percent of the site sodded.

Credit for "Sod/Turf Area Alternatives" given for planting/seeding native wildflowers, meadow grasses or ground cover in-lieu of allowable sodded area.

H. Installation, maintenance, irrigation and replacement. The following standards shall be considered the minimum required installation, maintenance, irrigation and replacement standards for all trees and landscape material.

1. **Installation.** All landscaping shall be installed according to sound nursery practices in a manner designed to encourage vigorous growth. Soil improvement measures may be required to ensure healthy plant growth. A plant or tree's growth characteristics shall be considered before planting to prevent conflicts with views or signage. Such conflict shall not in itself permit the pruning of trees in excess of thirty (30) percent of the tree's canopy in any given year as regulated by the Pruning standards of this section.

2. **Replacement.** Vegetation which is required to be planted or preserved by this section shall be replaced with equivalent vegetation if it is not living within one (1) year of issuance of a Certificate of Occupancy or Certificate of Completion. Preserved trees for which credit was awarded and which subsequently die within that year, shall be replaced by the requisite number of living trees according to the standards established in this section.

3. **Maintenance.** The land owner, or successors in interest, or agent, if any, shall be jointly and severally responsible for the following:

   a. Regular maintenance of all landscaping in good condition and in a way that presents a healthy, neat, and orderly appearance. All landscaping shall be maintained free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, as needed and in accordance with acceptable horticultural practices;

   b. The repair or replacement of required landscape structures (e.g., walls, fences) to a structurally sound condition;

   c. The regular maintenance, repair, or replacement, where necessary, of any screening or buffering required by this section;

   d. Perpetual maintenance to prohibit the reestablishment of harmful exotic species within landscaping and preservation areas; and

   e. Continuous maintenance of the site.

4. **Tree pruning.** Pruning of trees shall be permitted to allow for healthy uniform tree growth, and to promote the aesthetic structural and safety considerations of the tree;

   a. The pruning of a tree shall be conducted within the limits and criteria established (definitions and terminology, types of pruning, professionally accepted pruning practices, etc.) by the National Arborist Association, as amended and this section.

(1) **Fine, standard, or hazard pruning.** Fine, standard, or hazard pruning is commonly used to improve the aesthetics of a tree in addition to improving the structural integrity of a tree. One or more of these pruning techniques shall be used for all tree pruning unless the tree endangers the health, safety or welfare of the public.

(2) **Pruning limits.** A maximum of thirty (30) percent of a tree's canopy may be pruned during a one (1) year period unless:

(a) Crown reduction pruning is required; or

(b) The pruning would result in a tree which does not comply with the requirements of this section for the minimum size of a tree, or would not comply with certain site development conditions placed on the site by the Board of County Commissioner or other applicable regulating boards or committees.

(3) **Illegal pruning.** The following types of tree pruning are prohibited:

(a) Tree pruning resulting in the severe pruning of lateral branches or canopy of a tree which is not endangering the health, safety or welfare of the public; or

(b) The hatracking or topping of a tree canopy.

(4) **Crown reduction pruning.** Crown reduction pruning may exceed the maximum pruning limit of thirty (30) percent and shall be used only for the following site conditions:

(a) If a tree interferes with utility lines or utility structures;

(b) If a tree has a crown dieback of greater than thirty (30) percent; or

(c) If a tree has storm damage.

b. **Exceptions.** The Pruning requirements of this section shall not apply to the following:

(1) The pruning of trees on a single family lot or two unit housing on a lot (unless conducted by a commercial tree service business, landscape company, lawn service business or other related landscape maintenance businesses); or

(2) Vegetation which is permitted to be removed, relocated or otherwise altered by Sec. 7.5, Vegetation preservation and protection, or this section.

5. **Irrigation.** Landscaped areas shall be irrigated as necessary to maintain required plant materials in good and healthy condition. Irrigation systems shall comply with the following standards:

   a. All landscaped areas shall be provided with a readily available water supply with at least one (1) outlet within seventy-five (75) feet of the plants to be maintained. The use of non-potable water for irrigation purposes shall be encouraged;

   b. Irrigation systems shall be continuously maintained in working order and shall be designed so as not to overlap water zones or to water impervious areas;

   c. No irrigation system shall be installed or maintained abutting any public street which causes water from the system to spurt onto the roadway or to strike passing pedestrian or vehicular traffic;

   d. The use of irrigation quality or re-used water shall be required for, but not limited to, parks and recreation facilities (e.g., golf courses or medians) that are within one (1) mile of reuse wastewater mains or within the Irrigation Quality (IQ) effluent water service area of the Palm Beach County Water Utilities Department where irrigation quality or re-used water is available and where such reuse is approved by the regulatory agencies;

   e. The use of irrigation quality or re-used water shall be encouraged through inter-local agreements with municipalities and utilities that provide water and wastewater service to the unincorporated areas, provided that the reuse wastewater main is within one (1) mile, where irrigation quality water is available and where such reuse is approved by the regulatory agencies;

   f. No permanent irrigation system is permitted for an area set aside on approved site development plans for preservation of existing native vegetation;

   g. Temporary irrigation systems installed pursuant to acceptable xeriscape practices may be used to meet the standards of this section, upon approval of the Development Review Committee; and

   h. Whenever practical, irrigation systems shall be designed in districts to apply water onto shrub and tree areas on a less frequent schedule than those irrigating lawn areas. When technically feasible, a rain-sensor switch shall be installed on systems with automatic controllers.

6. **Curbing and encroachment of vehicles.** The following landscape protection measures shall be required for all landscaping installed or preserved pursuant to this section and shall be shown on paving and drainage plans

a. **Curbing.**

(1) Except as provided in Sec. 7.3.H.6.b (Wheel stops), all landscape areas subject to vehicular encroachment shall be separated from vehicular use areas by six (6) inch, non-mountable, FDOT-type "D" or FDOT-type "F", concrete or asphalt curbing. The curbing shall be machine-laid, formed-in-place or integral with the pavement. The use of extruded curbing shall be prohibited. In interior vehicular use areas, those landscape areas to be separated are:

(a) All terminal islands;

(b) All interior islands; and

(c) All landscape areas adjacent to vehicular use areas serving access and temporary vehicle storage needs of the public that require curbing when located behind a parking space to prevent vehicular encroachment when backing up, i.e., access roads in planned developments, stacking areas in gas stations, banks and drive-in restaurants, or outdoor retail sales and display of new and used vehicles.

(2) The curbing on all landscape areas shall include the full radius and extend a minimum of five (5) feet beyond the point of tangency of the radius. Termination of all curbing shall include a one (1) foot minimum taper to meet existing grade.

b. **Wheel stops.** The landscape area in front of any off-street parking space shall be protected from vehicular encroachment by the use of concrete wheel stops or continuous concrete curbing. Wheel stops shall have a minimum height of six (6) inches above finished grade of the parking area. Wheel stops shall be properly anchored and shall be continuously maintained in good condition. Where wheel stops are located within two (2) feet of the front of a parking space, that two (2) feet may be landscaped with turf or ground cover in lieu of paving. Only the portion of the parking space forward of the back of the wheelstop shall remain unpaved. Wheelstop anchor rods shall be set through the pavements and the bottom of the wheelstop must rest fully on the pavement to prevent rocking.

c. **Tree protection.** Trees which are to be preserved shall be protected from damage during the construction process, in accordance with the standards of Sec. 7.5 (Vegetation Protection), and other appropriate tree protection techniques. In determining the appropriateness of particular techniques, the current edition of the "Tree Protection Manual for Builders and Developers," published by the Division of Forestry of the State of Florida Department of Agriculture and Consumer Services, or a similar reference manual shall be used.

7. **Use of landscaped areas.**

a. **No storage of materials.** Landscape areas which are required to be created or preserved by this section shall not be used for the storage of materials or sale of products or services.

b. **Signs within landscape areas.** All signs within required landscaped areas shall comply with the standards of Sec. 7.14 (Signage) and shall be supplemented with a three (3) foot wide planting area around the base of the sign. One shrub for each ten (10) square feet of sign surface area shall be installed within the required planting area. Monument signs may be surrounded by ground covers instead of shrubs.

c. **Drainage easements.** Drainage easements shall not be located within landscape buffers.

8. **Safe sight distance triangles.**

a. Safe sight distance triangles shall be provided in accordance with County *Design Manual* standards. Extended safe sight distance triangles shall be required in individual cases when the County Engineer determines that intersecting street alignments or other factors are such that the standard safe sight distance triangles are insufficient to ensure appropriate minimum stopping/crossing sight distances, in accordance with FDOT "Green book" criteria.

b. All landscaping within the required safe sight distance triangle areas or extended safe sight distance triangles shall be planted and maintained as follows:

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

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

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

(4) Landscaping shall be located in accordance with the roadside clear zone provisions of the State of Florida Department of Transportation's *Manual of Uniform Minimum Standards for Design, Construction, and Maintenance of Streets and Highways*, as amended;

(5) No parking or vehicular use areas shall be permitted within the required safe sight distance triangular areas; and

(6) All landscaping shall be planted and perpetually maintained within the safe sight distance triangle area, in accordance with this section.

I. Landscape in rights-of-way and easements.

1. **Right-of-way landscape.** A land owner may be permitted or required by the County Engineer to landscape the medians or swales of streets, provided that the plant material to be used complies with the standards of Sec. 7.3.F (Tree and landscape material standards) is appropriate for the location, and provided that the following standards are met. Application forms shall be prepared and made available to applicants by the Department of Engineering and Public Works. Approval of "on-site" landscape plans shall not constitute approval of any street or right-of-way landscaping that may appear on such plans. The County Engineer shall retain final authority to approve or disapprove street and right-of-way landscaping plans and maintenance requirements with respect to safe and proper engineering practices. All approvals shall be subject to any conditions imposed by the DEPW.

   Where appropriate and prior to issuance of a development order, a property owner shall be required by execution of a declaration in the public records, or other means acceptable the County Attorney, to install and maintain landscaping along land in or abutting thoroughfare roads.

2. **Landscape in easements.** Landscaping may be permitted in easements only with the written permission of the easement holder. Written permission shall be submitted in a form acceptable to the Palm Beach County Attorney. Permission shall be filed with the land records applicable to the site, as maintained by the Clerk of the Circuit Court of Palm Beach County. A utility or drainage easement may cross a tree planting strip only upon the approval of the Zoning Director.

J. Special landscape and vegetation protection standards.

1. **Lake Worth and Loxahatchee River buffers.** A fifty (50) foot native vegetation buffer shall be preserved along Lake Worth and the Loxahatchee River. The fifty (50) foot buffer shall be measured from the present commonly recognized waterway bank.

2. **Native plant community set aside.** All development shall comply with Sec. 7.5 (Vegetation Protection).

3. **Wetlands.** A buffer zone of native upland vegetation shall be planted pursuant to Sec. 9.4 (Wetlands Protection).

4. Surface water management tracts. Functional vegetated littoral zones shall be established pursuant to Sec. 7.6 (Excavation).

5. The Board of County Commissioners through its respective Departments, such as Engineering, Parks and Recreation, Airports, Agriculture, and Environmental Resources Management, shall be responsible for the care and maintenance of the trees present on County-owned property.

K. Temporary suspension of landscape standards. The installation of landscaping required by this section may be temporarily suspended, in individual cases, by the Executive Director of PZB; after a freeze when required landscape materials are not available; during a period of drought in which the use of water is restricted by a governmental authority; or prior to a building certificate of occupancy in response to extenuating circumstances beyond the control of the applicant.

1. Performance surety. If the landscape standards of this section are suspended pursuant to this section, the PZB Department shall enter into an agreement with the land owner, that will allow issuance of the permit or Certificate of Occupancy or Certificate of Completion. Such an agreement will be approved only if, in the opinion of the County Attorney, the land owner provides adequate guarantee or surety that the terms of this section shall be met. The guarantee shall consist of a performance bond or other surety agreement approved by the County Attorney, in an amount equal to one hundred and ten (110) percent of the direct costs of materials and labor, and other costs incidental to the installation of the required landscaping.

2. Surety bond requirements. Performance guarantees required pursuant to this subsection shall run to the Board of County Commissioners, be in a form satisfactory and acceptable to the County Attorney, and specify the time-frame for the completion of the landscape standards of this section. An application for a surety bond shall be accompanied by a Landscape Plan prepared by the applicant which shall identify the plantings which have been postponed and include a project schedule. Planting cost estimates shall be verified by competent authority.

L. Administration.

1. **Field inspections.** Unless otherwise provided in this section, all development subject to this section shall be inspected by the PZB Department prior to issuance of a paving permit or Certificate of Compliance.

2. **Optional special certification.** In lieu of initial field inspection and certification by the PZB Department, the land owner may submit a special Certificate of Compliance which complies with the following:

   a. **Form of special certification.** The special certification shall:

      (1) Be submitted to PZB Department prior to issuance of a building permit, paving permit or Certificate of Occupancy or Certificate of Completion;

      (2) Be submitted in sufficient numbers upon forms available from the PZB Department;

      (3) Bear the seal of a landscape architect;

      (4) State that the landscape architect or other licensed professional personally inspected the site;

      (5) State that the landscape architect or other licensed professional certifies that landscaping was properly installed and meets all requirements of this section and of this section;

      (6) State that the landscape architect or other licensed professional understands that any misrepresentations or misstatements in the special certificate of compliance shall constitute a violation of this section and of State law;

      (7) State that the landscape architect or other licensed professional understands that misrepresentations or misstatements in the special certificate of compliance may also become the grounds for professional disciplinary action pursuant to State law; and

      (8) Contain such other information as required by the PZB Department which is reasonable and necessary to a determination that landscaping is in compliance with this section.

   b. **Field verification of special certification.** The PZB Department may at its option conduct a field inspection to verify representations made in the special certificate of compliance.

   c. **Acceptance of special certification.** If no field verification is conducted by the PZB Department, the special certificate of compliance shall be deemed to have been accepted. Upon acceptance by the Department, the special certificate of compliance shall be filed and maintained with the official records of the development.

M. **Enforcement**. Failure to install or maintain landscaping according to the terms of this section shall constitute a violation of this section. Where trees and shrubs are required to be planted or maintained by this section, failure to plant or maintain each individual tree shall be considered a separate violation. Each day in which either landscaping or individual trees are not installed or maintained according to the terms of this section shall constitute a continuing and separate violation of this section, and shall be subject to the Palm Beach County Code Enforcement Citation Ordinance (Ord. No. 91-15).

SEC. 7.4 PROHIBITION OF DUMPING, REGULATION OF WASTE DISPOSAL AND CLEAN FILL ACTIVITY

A. **Purpose and Intent**. The purpose and intent of this section is to protect the surficial aquifer and prevent sanitary nuisances and public health threats by prohibition of dumping, regulation of waste disposal and clean fill activity. The specific objectives of this section are to establish prohibition for dumping or placing of waste upon any land or water on private or public property and regulate the disposition of clean fill.

B. **Applicability**. The standards of this section shall apply to all activities involving disposal of waste and clean fill activities within the unincorporated or incorporated areas of Palm Beach County.

C. **Exemptions**. The following shall be exempted from the standards of this section:

1. All waste management activities which are approved by Department of Environmental Regulations, Solid Waste Authority, or the Palm Beach County Public Health Unit (PBCPHU).

2. Agricultural waste disposal, provided the agricultural wastes are generated and disposed of on site and the property is agriculturally zoned.

3. Soil and mulch brought on to a property and used for the purpose of improving soil/plant relations through improving retention of nutrients and water for plants in ground or above ground on that site.

4. Clean fill disposed on land located in Palm Beach County if the person obtains the property owner's consent and the property has provided the Palm Beach County Public Health Unit (PBCPHU) with required notification as set forth herein.

D. **Prohibition for Dumping and Placing Waste**. It is unlawful and shall constitute willful causing of pollution for any person to dump, or cause or allow to be dumped; or place, or cause or allow to be placed; or bury, or cause or allow to be buried; any waste upon any land, or any water located in Palm Beach County.

E. **Regulation of Clean Fill Activities**.

1. **Prohibitions of Clean Fill Activities**. It is unlawful for any person to engage in the following activities:

a. Create or maintain a sanitary nuisance due to clean fill activities;

b. Adversely affect drainage resulting from clean fill activities; or

c. Store waste which results from clean fill activities for more than seven (7) days.

2. Notification of Clean Fill Activities:

a. Initial notification. Forty-five (45) working days prior to the commencement of clean fill activities, the property owner shall provide the PBCPHU written initial notification. Initial notification shall include; property owner(s) name, mailing address, phone number, clean fill material to be utilized, amount of clean fill activity, a survey prepared by a Registered Land Surveyor, and a sketch indicating location of fill on property.

b. Exception. Initial notification shall not be required for the following activities:

(1) Clean fill activities at parcels that have received a Palm Beach County Engineering Department subdivision approval and have a Land Development Permit;

(2) Clean fill activities necessitated by the Building Department permit standards for individual lot improvements which previously have not received a Land Development Permit. The intent is to allow the clean filling of individual unplatted or by-passed platted lots to meet current standards without deleteriously impacting the surrounding parcels;

(3) Clean fill activities at sites that have received a dredge and fill permit; or

(4) Clean fill activities conducted by any governmental agency.

c. Other permits required. Notification to the PBCPHU does not relieve the property owner from the need to obtain any local, state, or federal permit nor does it relieve the property owner from abiding by all local, state or federal laws, as applicable.

F. Enforcement, Penalties, Circuit Court Proceedings. Failure to comply with the requirements of this Section shall constitute a violation of this Code.

1. Enforcement. The PBCPHU shall have available to it all enforcement remedies made available pursuant to Chapter 77-616, Laws of Florida, as amended, and County ordinances adopted pursuant thereto. Violations will be heard by the Environmental Control Hearing Board.

2. Penalties. Penalties that may be imposed include the following:

a. A civil penalty of up to $500.00 per day for each violations; and

b. Affirmative action such as a requirement that the violator perform roadside waste clean-up services or bear the cost of waste removal in lieu of such services.

3. Circuit Court Proceedings. Circuit Court proceedings may be instituted to abate and prosecute violations, or enforce orders. Such relief may include both temporary and permanent injunctions.

SEC. 7.5 VEGETATION PRESERVATION AND PROTECTION.

A. Purpose and legislative intent.

1. Purpose. This section establishes an administrative review and permitting process to prohibit the unnecessary removal or destruction of existing native upland vegetation and require the eradication of certain invasive non-native plant species by:

   a. Limiting the removal of vegetation from a site until the approval of a bona fide site development plan;

   b. Requiring the establishment of preserve areas for a portion of native upland vegetation;

   c. Preserving and incorporating specimen trees into the site design;

   d. Ensuring that agricultural clearing has an agricultural designation on the Land Use Atlas; and

   e. Prohibiting the clear cutting or total removal of native vegetation from a site.

2. Legislative intent. It is the intent of the Board of County Commissioners to provide for the health, safety and welfare of the residents of Palm Beach County by encouraging beneficial land and forest management practices. The minimum standards and administrative procedures established by this section help achieve these goals by:

   a. Conserving environmental resources. Existing trees and vegetation, individually, in significant grouping, or in natural ecosystems, are essential elements of Palm Beach County's environmental heritage; and

   b. Serving functional values. Trees and vegetation serve a number of invaluable environmental, economic, social, educational and aesthetic functions, including:

      (1) Maintaining air quality through photosynthesis;

      (2) Maintaining permeable land areas for aquifer recharge and surface water filtration;

      (3) Reducing and reversing air, noise, heat, and water pollution;

      (4) Promoting energy conservation through the creation of shade, reducing heat gain in or on buildings or paved areas, and reducing the temperature of the microclimate through evapotranspiration;

(5) Reducing erosion by stabilizing the soil;

(6) Providing habitat and corridors for wildlife;

(7) Providing direct and increasingly important psychological and physical benefits to human beings by reducing noise and glare, breaking up the monotony, and softening the harsh aspects of urban development;

(8) Serving as educational, aesthetic, historic, and cultural resources;

(9) Buffering and providing a transition area between otherwise incompatible types of development;

(10) Increasing the economic value of land by serving as a capital asset when properly incorporated into site design; and

(11) Promoting the use of plant species native to South Florida through relocation and installation.

c. Preventing destructive land development practices. The land clearing practices of grubbing or clearcutting of lots without a bona fide site development plan or a comparable preservation management plan, may result in the removal of native upland vegetation which may have otherwise been preserved or relocated.

B. Applicability. The provisions of this section shall apply within the unincorporated areas of Palm Beach County and shall set restrictions, constraints and requirements to protect and preserve native upland vegetation. It is a violation of this section to alter native upland vegetation without first obtaining a vegetation removal permit unless expressly exempt under the provisions set forth in this section. This section shall apply to the alteration of non-native vegetation, native upland vegetation, and preserve areas. This section is intended to complement and not conflict with other County, State and federal environmental regulations. However, in cases of conflict, the more restrictive regulations shall apply to the extent of the conflict.

C. Authority. This section is adopted under the authority of Chapter 125, F.S., and the Palm Beach County Comprehensive Plan, as amended, particularly the Conservation and Coastal Zone Elements, among other goals and objectives. These Elements recognize the significance of all native vegetation and provide for its protection and enhancement by requiring the adoption of new codes and ordinances to revise, broaden and strengthen existing environmental laws.

D. **Exemptions.** The following activities are exempt from the vegetation removal permitting process:

1. **Single-family or two (2) residential units with a building permit.** Lots supporting single-family or two (2) residential unit or the initial construction of a single-family residence or two (2) residential units and their accessory structures with a building permit upon a single lot of less than two and one-half (2.5) gross acres in size are exempt. However, single-family and two (2) residential unit housing on lots below the two and one-half (2.5) acreage threshold shall comply with the minimum tree planting requirements pursuant to Section 7.3 and with the following standards of this section:

   a. Sec. 7.5.A.1 & 2, Purpose and Legislative intent, except establishing preserve areas;

   b. Sec. 7.5.G.6.a, Minimum vegetation removal and

   c. Sec.7.5.H.1. & 2., Prohibited plant species: Plant list; and Removal and site inspections.

2. **Enlargement or repair.** The enlargement or repair of an existing single-family or two (2) unit residential building and accessory structures regardless of the size of the lot, as long as the activities are consistent with the original approval or permit;

3. **Land surveyor.** The minimal removal of trees or understory by a Florida licensed land surveyor necessary for the performance of his or her duties. The swath cleared shall not exceed five (5) feet in width and hand clearing shall be used to remove vegetation. If survey lines greater than five (5) feet in width are required, PZB shall be notified and a permit shall be required;

4. **Public and Private Utilities.** Any alteration, to design specifications, pursuant to the direction of public or private utilities, water control district, or water management districts within drainage easements where the vegetation is interfering with drainage, or service established by public or private utilities, water control districts, or water management districts;

5. **Natural emergencies.** The provisions of this section may be suspended or waived by the Executive Director of PZB during a period of officially declared emergency, such as a hurricane, a windstorm, a tropical storm, flood or similar disaster;

6. **Forest management activities.** Selective tree removal for forest management activities as defined in the current Forest Management Plan as approved by Florida Division of Forestry for that specific site;

7. **Botanical gardens, botanical research centers, or licensed commercial nurseries.** A Bona Fide Agricultural production exemption permit is required only for the initial clearing of these sites. Subsequent harvesting or other plant removal shall not require a vegetation removal permit;

8. Parks and Recreation. Alterations or activities associated with the adopted management plan for government maintained parks, recreation areas, wildlife management areas, conservation areas and preserves;

9. ERM. The removal of vegetation by ERM or their agents for the purposes of environmental enhancement or environmental restoration.

10. Environmental/Conservation Organization. A not-for-profit organization which is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code shall not be required to obtain a permit under the provisions of this Section, for the creation of trails by such organization to be used solely for passive recreational purposes. However, no clearing or other activity in furtherance of creating a trail shall occur before such organization submits a master plan of the proposed trail(s) to PZB and ERM and has received written approval from the Directors of PZB and ERM; and

11. Vegetation Removal. Vegetation removal required pursuant to the Lot Clearing Ordinance (Ordinance No. 92-13), as amended, or by a public law enforcement agency directive or order pursuant to necessary law enforcement activity shall be exempt from the provisions of this Section. However, prior to any vegetation removal, the property owner shall provide to the Zoning Director sufficient documentation to determine the applicability of the specific law, ordinance, or other authority that is being relied upon, a written description of the extent of vegetation removal, and written evidence assuring that native upland vegetation or specimen trees will not be destroyed or harmed.

E. Permits.

1. Types of vegetation removal permits. PZB may issue the following permits for the preservation, relocation or removal of vegetation:

a. Bona Fide Agricultural permit. A permit issued for lots which will support agriculture uses meeting the definition of a Bona Fide Agricultural use and having a land use designation of Agricultural Production (AP), Special Agricultural (SA), Rural Residential 10 (RR10), or Agricultural Reserve (AGR) on the Land Use Atlas;

(1) Existing Bona Fide Agricultural permit. An existing agriculture use which meets the ULDC definition of a Bona Fide Agricultural use and is located outside of an agricultural Comprehensive Plan Land Use Category shall be considered a minor non-conforming use.

(2) Expansion of an existing agricultural site. The expansion of an existing agricultural site which is a minor non-conforming use shall comply with the requirements of Sec. 13.2.B., Minor non-conforming uses and shall receive a Bona Fide Agriculture permit prior to any land clearing of the expansion area.

b. Type I permit. A permit issued for lots which will support a single family residence or two (2) residential units located on a lot two and one-half (2.5) acres or larger;

c. Type II permit. A permit issued for lots which will support: a multi-family residential building (3 or more residential units); a commercial use; an industrial use; or other uses not covered by a Type I permit or Bona Fide Agricultural permit; and

d. TAO - Temporary Agricultural Operation. Sites which comply with the requirements of Sec. 6.4.D. for a TAO and this section, and which receive a special permit for a TAO from PZB may apply for a Type II permit to remove vegetation. The type of vegetation removal permit conditions required for a TAO shall depend upon the underlying land use or uses approved for the subject site. A TAO special permit grants permission for a temporary agricultural use only and shall not receive a Bona Fide Agricultural Permit.

2. Permit application procedures and requirements. PZB shall provide the application forms to be used by permit applicants. An owner or agent of the owner may apply for a vegetation removal permit and shall specify the type of permit desired; i.e., Bona Fide Agriculture, Type I or Type II permit. PZB may require that specific site plans be prepared by a landscape architect, architect, or engineer registered in the State of Florida, or an environmental professional certified by the National Association of Environmental Professionals.

All application submittals shall include the following information:

a. Application form. An application form shall be completed, signed, and notarized by the property owner or agent of the owner. If the application is submitted by an agent, it shall include a notarized agency agreement clearly indicating that the property owner has delegated full authority to apply for the permit and to accept the terms of any special conditions which may be imposed by PZB or ERM. The application shall include the name, address, and telephone number of the lot owner and the owner's agent;

b. Aerial. A recent high resolution aerial photograph of a scale not less than 1:200 (a scale of 1:50 is preferred; Palm Beach County Blueline Aerial is acceptable);

c. Vegetation inventory. A Vegetation inventory and site assessment which shall consist of:

(1) Vegetation survey. The survey shall show the location, types and extent of vegetation upon the site and shall be based upon current (less than one [1] year old) information.

(a) Type II and Bona Fide Agricultural permit applications. The survey shall be in the form of an aerial or a field survey and shall be accompanied by photographs illustrating the areas and types of vegetation.

(b) Type I permit applications.

i) The survey may be in the form of a plot plan accompanied by photographs of existing vegetation and site conditions. If site development plans have been prepared, the generalized vegetation survey shall be prepared to the same scale or in some other manner which clearly illustrates the relationships between areas of vegetation and proposed site improvements. If no site development plans are available, the generalized vegetation survey shall be prepared to a convenient scale which clearly shows the extent of vegetation upon the site;

ii) For single family and two (2) residential units on lots four (4) acres or greater that require the setting aside of a preserve area, ERM shall complete the site assessment needed to make an evaluation of the proposed development project and the location of the preserve area.

(2) Listed species. Type II and Bona Fide Agricultural permit applicants shall submit a list of species classified by one or more of the following agencies:

(a) U.S. Fish and Wildlife Service;
(b) Florida Game and Fresh Water Fish Commission;
(c) Florida Committee on Rare and Endangered Plants and Animals;
(d) Florida Department of Agriculture and Consumer Services; and
(e) Treasure Coast Regional Planning Council.

as rare, threatened, or endangered, or species of special concern, and habitats which have been designated as regionally rare or endangered which exist or are likely to exist on site.

(3) **Specimen tree**. Type I, Type II and Bona Fide Agricultural permit applications shall list and identify those trees that meet the specimen tree definition. Specimen trees shall be preserved and incorporated into the design of the site development plan. If the applicant requests the removal of a specimen tree, PZB shall determine that the following conditions exist:

(a) **Relocation.** Specimen trees may be relocated, only if there is no construction alternative which allows the incorporation of the tree into the site design; or

(b) **Removal.** Specimen trees may be removed only under the following circumstances:

(i) The tree cannot be relocated as determined by PZB;

(ii) The tree is fatally diseased; or

(iii) The tree endangers the health, safety, or welfare of the public.

(4) **Bona fide site development plan**. Graphics shall be submitted which illustrate the design of the site, including but not limited to the following items:

(a) A footprint of the proposed site development, including buildings, roadways, parking areas, existing and proposed grades, utilities, septic drainfields, water bodies, flood control structures, stormwater systems, wellfield locations, preserve areas, landscape areas, and other pervious areas. The site development plan shall be at the same scale as the submitted vegetation overlay;

(b) Paving and drainage plans;

(c) Site location and existing zoning; and

(d) A statement of the status of existing development approvals, including permit applications.

(5) Written assessment. Type II and Bona Fide Agricultural permit applicants shall submit a written assessment of the plant communities which have been identified on the site. The written assessment shall include an evaluation of the character and quality of the identified plant communities, including their rarity, viability, and such other physical characteristics and factors which may affect their preservation. The assessment and evaluation shall be prepared by the Palm Beach County Soil and Water Conservation District or by a person knowledgeable in the identification and evaluation of vegetative resources, such as a forester, biologist, ecologist, horticulturist, landscape architect, or other persons having similar recognized skills and experience.

d. Preserve area. For permits that require setting aside at least twenty-five (25%) percent of the total native upland habitat on site as a preserve, see Section 7.5.K.

e. Sufficient copies. The minimum number of copies of application requirements needed to administer this section shall be provided to PZB and ERM as indicated on the application form.

f. Fees. Permit fees shall be paid to PZB at the time that the application materials are submitted. Fees are nonrefundable and nontransferable.

3. Application sufficiency review. PZB and ERM shall review and evaluate permit applications for sufficiency of information. If the information received from an applicant is not adequate to review a vegetation application, PZB or ERM may require that additional information be submitted to complete the review (e.g. tree survey, range plan, vegetation holding area plan, burn plan, etc.), prior to the final recommendation for approval or denial.

4. Permit issuance. All permits may be approved with conditions (see Sec. 7.5.G.6.) and shall be issued in the following manner:

a. Type I and II permits shall be issued in conjunction with a building permit; and

b. Bona Fide Agricultural permits shall be issued within twenty (20) working days following receipt of a completed application.

F. Site inspections. PZB in coordination with ERM shall verify that the site meets the requirements for the permit applied for; and either or both Departments may conduct the following site inspections:

1. Pre-clearing inspection. An inspection conducted prior to issuance of a vegetation removal permit to identify, including but not limited to: preserve areas, landscape buffers, and relocatable vegetation;

2. **Clearing inspection**. An inspection conducted following issuance of the vegetation removal permit and immediately prior to clearing operations, to assure proper understanding of and compliance with the requirements of this section and any permit conditions as they relate to a specific site;

3. **Post-clearing inspection**. An inspection conducted after clearing operations are completed to verify compliance with vegetation removal permit conditions;

4. **Annual preservation inspection**. An inspection conducted by ERM to ensure and verify compliance with vegetation removal permit conditions related to the preserve area management plan; and

5. **Additional inspections**. Additional inspections may be required prior, during or after the clearing operations to assure compliance with requirements set forth in this section.

G. **Site development requirements.** The following pre-development conditions shall be required for all vegetation removal permits:

1. **Preserve areas.** For sites requiring a preserve area see Section 7.5.K.

2. **Prohibited storage or access**. Vehicles, structures, supplies, heavy equipment, light equipment, fill material, construction materials, concrete, paint, chemicals, or other foreign materials shall not be placed, stored, deposited, utilized or disposed of within preserve areas unless allowed by vegetation removal permit conditions.

3. **Vegetation damage and replacement**. Trees in preserve areas or in areas designated for landscaping which are accidentally destroyed or damaged during construction activities shall be replaced by the developer with the same species of tree or acceptable alternative species as determined by PZB in coordination with ERM as referenced in this section and Sec. 7.3, Landscaping and buffering and by Table 7.3-4 Tree Credits.

4. **Erosion control**. Measures shall be taken to prevent detrimental effects of erosion resulting from site alterations. Areas prone to erosion shall be stabilized as required in Section 7.3, Landscaping and Buffering.

5. **Tree protection manual**. Site development activities shall comply with the standards of the Tree Protection Manual for Builders and Developers, as amended, which is available from the Florida Department of Agriculture and Consumer Services.

6. Permit conditions.

a. Minimum vegetation removal. The extent of approval to remove native vegetation shall be limited to the minimum necessary to accomplish the purpose of the Bona fide site development plan. This may include limiting the extent of approval for vegetation removal to portions of a site or specifying special conditions by which removal shall take place. Such limitations shall be clearly indicated in writing in the vegetation removal permit conditions. If vegetation removal is limited to portions of a site, the extent of such limitation shall be clearly delineated on a site development plan. Surety may be required as a condition of approval.

b. Vegetation protection standards. The following minimum standards shall be applied to any area of vegetation designated for protection by this Section:

(1) Protective barriers. Barriers as required by PZB or ERM shall be constructed to protect preserve areas or areas of native upland vegetation, and areas of relocatable native vegetation prior to any construction or site preparation activities to prevent soil compaction and vegetative damage.

(a) Individual trees or shrubs. A suitable protective barrier, constructed of metal, wood, or other durable material, shall be placed around individual protected trees, as follows:

i) A distance of twelve (12) feet or greater or at a distance that is double the radius of the dripline, whichever is greater, from all protected mangroves, hardwoods, and conifers; or

ii) As otherwise provided in the special conditions attached to a vegetation removal permit.

(b) Groups of trees or vegetation. Unless otherwise provided by law or in the terms of special conditions included in a vegetation removal permit, groups of protected trees or areas of vegetation to be preserved shall not require protective barriers. However, such areas shall be prominently highlighted by the installation of stakes installed a maximum of fifty (50) feet apart. Ropes, plastic tape, ribbons, or similar material shall be attached to the vegetation or stakes around the perimeter of the protected area. Marking materials shall be protective and non-damaging to the vegetation intended for protection. Special care shall be taken to prominently indicate the limits of the preservation areas so that equipment operators can see the limits of vegetation removal activity.

(c) Duration. Protective barriers shall remain in place until they are authorized to be removed by the Zoning Director or until receipt of a final certificate of occupancy.

(2) Grade changes or soil removal. Excavation, trenching or other site activities which may harm or cut roots is forbidden, except in compliance with the terms of special conditions from a vegetation removal permit.

(3) Attachments. Signs, permits, wires, or other attachments, other than those of protective and non-damaging nature, shall not be affixed or attached to protected vegetation.

(4) Temporary buildings. Temporary buildings, including but not limited to, construction trailers, and sales trailers, shall not be driven, parked, or stored within protected vegetation areas.

H. Prohibited plant species. Prohibited plant species, as defined below, shall be removed in their entirety concurrent with vegetation removal and site development. The following regulations shall apply to prohibited plant species:

1. Plant list. The following plant species shall be removed and any installation of these species is prohibited:

a. *Melaleuca quinquenervia* - Melaleuca;

b. *Schinus terebinthifolius* - Brazilian pepper;

c. *Casuarina* spp. - Australian pine; and

d. *Acacia auriculiformis* - Earleaf acacia

2. Removal and site inspections. Prior to a final certificate of occupancy for a building permit, a site inspection will be conducted by a County inspector to verify the removal of all prohibited plant species from the permitted area. Periodic removal of prohibited species may be required to prevent their re-establishment on site.

3. Phased development. The applicant shall be required to remove prohibited species within each phase prior to receipt of a certificate of occupancy for the first building permit for each phase.

4. Phased removal. Lot owners who qualify for a Type I Vegetation Removal Permit may request a two (2) phase prohibited species removal program by complying with the following requirements:

a. The lot has a gross area of five (5) acres or more;

b. Fifty (50) percent or more of the lot supports prohibited plant species;

c. A site survey shall be submitted showing a phase line separating the site into two phases;

d. The prohibited plant species shall be removed from phase one prior to a final certificate of occupancy for a building permit; and

e. The prohibited plant species shall be removed from phase 2 within one-hundred eighty (180) days of the final certificate of occupancy for phase 1.

5. Preserve Area - Removal of Invasive Non-Native Plants.

The following conditions shall apply to the prohibition and removal of invasive non-native plant species:

a. Invasive non-native plant species.

The following shall be considered the official list of invasive non-native plant species and the list may be updated by ERM. These plants shall be removed in their entirety from the entire property as well as from the preserve area:

Albizia lebbeck	Woman's tongue	Tree
Ardisia solanaceae	Shoebutton ardisia	Shrub
Bischofia javanica	Bishop-wood	Tree
Colubrina asiatica	Lather leaf	Vine
Cupaniopsis anacardioides	Carrotwood	Tree
Dioscorea bulbifera	Air potato	Vine
Ficus altissima *	Lofty fig	Tree
Ficus bengalensis	Banyan	Tree
Hibiscus tiliaceus	Mahoe	Tree
Jasminum dichotomum	Jasmine	Shrub
Lygodium microphyllum	Small-leaved climbing fern	Fern
Mimosa pigra	Cat's claw	Shrub
Rhodomyrtus tomentosus	Downy rose myrtle	Shrub
Sapium sebiferum	Chinese tallow tree	Tree
Syzygium cumini	Java plum	Tree
Thespesia populnea	Cork tree	Tree

* Plants may be grown only under greenhouse or shadehouse conditions for use as indoor houseplants.

b. Prohibition. The installation of invasive non-native plant species into any preserve area in Palm Beach County is prohibited. The Mounts Botanical Gardens may keep individual specimens for education purposes.

c. **Removal**. All invasive non-native plant species, as defined by Sec. 7.5.H.5.a., shall be removed from the entire site including the preserve area prior to the issuance of a certificate of occupancy with the inclusion of stipulations requiring invasive non-native plant species removal within the time constraints of the Permit. Periodic removal of non-native species is required to control regeneration of these species.

d. **Verification of Removal**. No certificate of occupancy or other official acceptance of completed work shall be issued for development until verification is provided, through inspection by ERM, that all required removal of invasive non-native plants has been completed and is in accordance with the development plan or phasing plan and permit conditions.

I. **Vegetation relocation.** Native upland vegetation existing in areas proposed for development on a site plan shall be relocated on site to landscape areas using best industry practices to maximize survival potential.

1. **Voluntary vegetation salvage**. Native upland vegetation which cannot be transplanted on site is encouraged to be offered for donation or be sold by the applicant. This provision is applicable to Type II or Bona Fide Agriculture vegetation removal applications. The applicant shall justify that the landscape areas on site support the equivalent of one (1) tree per eight hundred (800) square feet of landscape area, unless waived by the Zoning Director.

a. **Applicant**. The applicant shall:

(1) Attach to the permit application a list of the available vegetation and the species names and approximate quantity of each species;

(2) Physically mark (so that no inadvertent destruction occurs) available vegetation on site to afford easy identification;

(3) Relocate vegetation designated for salvage to a holding area and replant and maintain to ensure survival, if it is in immediate conflict with site construction activities;

(4) Coordinate the salvage of vegetation on site with ERM and the recipient; and

(5) Allow for the vegetation to remain available for removal, sale or donation for at least twenty (20) working days after vegetation has been identified by the County.

b. **ERM.** ERM shall:

(1) Maintain a list of persons interested in salvaging native plant species. The list shall be available to an applicant upon request; and

(2) With the applicant's consent, ERM shall post the list of the site and available vegetation for public viewing.

2. **Vegetation disposal.** ERM shall be informed in writing of the manner of disposal of all surplus vegetation. Vegetation which cannot be donated or sold shall be:

a. Chipped and used for mulch;

b. Utilized for wood or paper products;

c. Disposed of at an approved disposal facility; or

d. Disposed of by other disposal methods such as, but not limited to, open burning or air curtain burning with approval and permits from the appropriate fire authority, the Division of Forestry, and the PBCPHU .

J. **Permit expiration.** Vegetation removal permits shall automatically expire and become void within one-hundred eighty (180) days after the issuance date of the permit.

1. **Extension of permit.** A permit may be extended for one-hundred eighty (180) day period, provided the applicant receives extension approval prior to expiration of the permit.

2. **New permit required.** If a vegetation removal permit expires or is revoked after work has commenced, a new permit shall be obtained before work is resumed. A new application and permit fee will be required.

3. **Permit prominently displayed.** The permit shall be prominently displayed upon the site.

4. **Permit transfer.** Permits may be transferable upon prior written notice to PZB and ERM of the transfer and verification of property ownership providing the use of the land does not change.

K. **Preserve areas.** Lots supporting native upland vegetation which are required to receive a bona fide agricultural permit for commercial agricultural development, a Type I permit or a Type II permit shall propose a location for a preserve area that consists of a minimum of twenty five (25%) percent of the total native upland habitat that occurs on site. **Applicants are required to arrange a pre-application meeting with ERM for this purpose, prior to submitting a building permit application.**

1. **Exclusions**. The following conditions may wholly or partially exempt a lot from establishing a preserve area on site:

   a. **Non-native vegetation**. Lots which do not support native upland vegetation, as field verified by PZB or ERM.

   b. **Type I permits**. Applicants for Type I permits with lot areas of less than four (4) acres.

   c. **Environmentally sensitive lands** . Lots which have met the preserve area requirements of Sec. 9.2, Environmentally Sensitive Lands, may credit this preservation area towards satisfying the preserve requirements of this section.

   d. **Previous government approvals**. Lots which have been issued one of the following government approvals prior to the adoption date of this Code; the approval has not expired; and a substantial change in land use to the development plan has not occurred after the effective date of this section:

      (1) A building permit;

      (2) A site plan;

      (3) A recorded subdivision plan approval ;

      (4) A valid development order for a Development of Regional Impact; or

      (5) A sufficiency notification for a Development of Regional Impact.

2. **Procedure**.

   a. **Vegetation assessment and evaluation**. An assessment and evaluation of the plant species on site shall be submitted as part of the permit application in accordance with the vegetation inventory requirements contained in Section 7.5.E.2.c (Vegetation inventory). It shall include, but not be limited to, the following detailed information:

      (1) Past and present land uses;

      (2) Vegetative communities on and adjacent to the site;

      (3) Existence and extent of invasive non-native species on and adjacent to the site; (See Section 7.5.H.5.a, Invasive Non-native Plant Species)

      (4) Specimen size trees located on the site; and

      (5) Listed plant and animal species which may occur on the site.

b. Single family lots. For single family and two (2) residential units on lots of four (4) acres or greater that require the setting aside of a preserve area, ERM shall complete the site assessment needed to make an evaluation of the proposed development project and location of the preserve area.

c. Site Visit. A site visit shall be coordinated with ERM to verify site conditions and to determine the location of the preserve area to be established.

d. Designation. ERM shall have the option to designate the portion of the native upland vegetation which will be included in the twenty-five (25) percent set aside for a preserve area. In determining the location of the preserve area, ERM shall consider the relative qualities of the undisturbed ecosystems present on site. Preference shall be given for the highest quality native upland habitats. The assessment and evaluation will be based on the habitat quality, biological diversity, and the following additional parameters:

(1) Listed species and regionally rare or endangered habitat concerns. Preference in locating the preserve area shall be given to native upland plant communities which support listed species. Criteria established by federal and state agencies must be complied with regarding listed species. Priority shall also be given to native upland plant communities considered as regionally rare or endangered which include, but are not limited to, sand pine/scrub oak associations, tropical hammock associations, and turkey oak associations; and

(2) Wildlife corridors. All reasonable efforts shall be made to link preserve areas or open space on adjacent lands and in existing major wildlife corridors.

e. Review. The purpose and intent of the Native Ecosystem Overlay (NE-O) district is to ensure the protection of environmentally sensitive lands in unincorporated Palm Beach County, while ensuring development options by permitting flexibility in development regulations. The applicant may request the preservation area to be reviewed under the provisions of Sec. 6.7.A, Overlay District Regulations (Native Ecosystem Overlay).

f. Management plan requirements. Prior to issuance of a vegetation removal permit, a written management plan shall be submitted to and receive written approval from ERM. The management plan shall contain information outlining methods to be implemented that will ensure compliance with the long-term goals, objectives, and requirements of this section.

g. Management plan. The intent of the management plan is to assure the viability and integrity of preserve areas through long-term maintenance and protection of these areas. At a minimum the preservation management plan shall include a program for ensuring:

(1) Detailed site descriptions;

(2) Long term protection of the native upland vegetation;

(3) Eradication and the continued removal of invasive non-native plant species;

(4) Continued removal of and protection from litter and debris;

(5) Control of erosion;

(6) Avoidance of site alterations which may degrade the preserve areas; and

(7) Maintenance of hydrological requirements of the preserve.

h. Easements. Drainage or other types of easements shall not be located within the boundaries of a preserve area unless allowed by vegetation removal permit conditions.

i. Land use activities. Land use within the preserve areas shall be limited to passive recreation. Preserve areas shall be identified and dedicated as a preserve on any plats required for the development and a copy of the plat shall be submitted to ERM prior to any development or vegetation removal, whichever shall occur first.

j. Survey. Prior to any site alterations, the preserve area shall be visibly marked on site, surveyed with a certified survey submitted to ERM and have approved barricade and erosion control materials in place.

k. Monitoring program. On an annual basis the applicant shall submit an affidavit verifying compliance with the preserve management plan and conditions. ERM will conduct a site visit to verify compliance.

3. Upland native vegetation outside preserve areas. Existing native upland vegetation outside of preserve areas shall, to the extent possible, be incorporated into development plans as buffers, open spaces, or landscaping, and shall conform to the landscape and buffer standards of Sec. 7.3.

4. Waiver.

a. Cash payment option. ERM shall have the option of granting a waiver for the establishment of a preserve area for lots which comply with all of the following conditions:

(1) Waiver request. Prior to approval for a cash payment option, the following site conditions and requirements must be met:

(a) The request must be submitted prior to Development Review Committee approval or issuance of a building permit;

(b) A cash payment must be made payable to the Palm Beach County Board of County Commissioners to be deposited in a trust fund for the acquisition, preservation, and management of off-site native upland vegetation; and

(c) A site inspection by ERM shall be made to verify that listed species do not exist on the site.

(2) Trust fund. ERM shall have the option of accepting a cash payment in lieu of preservation and shall accumulate such payments in a trust fund for the acquisition, preservation, and management of off-site native upland vegetation.

(a) Appraised value. The cash payment shall be at least equivalent to the average per acre appraised value, at the time of permit application, multiplied by the number of acres proposed to be deleted from the preserve.

(b) Approval option. In determining the availability of the cash payment option for a particular project, ERM shall consider the size and quality of the preserve area that would otherwise be required.

(c) Payment. The cash payment shall be provided to ERM prior to any alteration or development activities.

(d) Waiver. An applicant requesting a waiver of the preserve requirement shall comply with all of the terms and conditions as set forth in Sec. 7.5.I.

(3) Commercial agriculture option. The option for cash payments in lieu of preserve areas for commercial agriculture lots may allow for commencement of site development prior to submittal of the cash payment through compliance with the following requirements:

(a) Deed restriction or covenant. A deed restriction or covenant shall be placed on the lots which limits their use to commercial agriculture and the property owner agrees to make the cash payment to the Board of County Commissioners at the time that the site is converted to a nonagricultural land use; and

(b) Appraised value. The cash payment shall be calculated based on the appraised value at the time of conversion.

L. **Enforcement.** Failure to comply with the requirements of this section or any permit or approval granted or authorized hereunder shall constitute a violation of this section. PZB or ERM may issue a Cease and Desist Order or withhold a Certificate of Occupancy until the provisions of this section have been met.

1. **Fines.** Violations of the provisions of this section shall be punishable by:

   a. A triple permit fee for clearing without a valid permit;
   b. A fine not to exceed $500.00 per violation;
   c. Imprisonment, in the County jail, not exceeding sixty (60) days; or
   d. Such fines and imprisonment contained in b. and c. above pursuant to the provisions of Section 125.69, Fla. Stat.

2. **Violations.**

   a. A minimum violation of this section shall be the unauthorized alteration or removal of one (1) specimen tree; or the unauthorized alteration of native upland vegetation in any manner defined by this Section, of up to fifteen hundred (1,500) square feet in extent.

   b. Alteration or removal of each additional specimen tree and/or alteration of each additional fifteen hundred (1,500) square feet tract of native upland vegetation or portion thereof in violation of this section shall constitute a separate violation.

   c. Cumulative violations shall be determined by the addition of each fifteen hundred (1,500) square feet tract of native upland vegetation or portion thereof, or alteration or removal of each specimen tree, whether altered in the same manner or in a different manner, as defined by this section.

3. **Restoration.** Damage to native upland vegetation may result in an order to restore to pre-existing site conditions.

4. **Review board**. Violations of this section may be referred by ERM or PZB to the Groundwater and Natural Resources Protection Board for corrective actions and civil penalties.

5. **Additional Sanctions**. The County shall take any other appropriate legal action, including, but not limited to, administrative action, requests for temporary and permanent injunctions to enforce the provisions of this Section.

M. **Appeals** An Applicant may appeal a final determination made by a Director of either PZB or ERM to the Environmental Ordinance Appeals Board pursuant to this Section. The applicant shall comply with the following appeal procedures:

1. **Submittal**. An appeal must be made within twenty (20) days of the applicant's receipt of the final action.

2. **Hearing**. Each hearing shall be held within sixty (60) days of submittal of all documents which the Environmental Ordinance Appeals Board deems necessary to evaluate the appeal.

   a. At the conclusion of the hearing, the Environmental Ordinance Appeals Board shall orally render its decision (order), based on evidence entered into the record.

   b. The decision shall be stated in a written order and mailed to the applicant not later than ten (10) days after the hearing.

   c. Written orders of the Environmental Ordinance Appeals Board shall be final.

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

N. **Variation from Minimum Property Development Regulations**. The Zoning Director may waive the following minimum property development regulations for the purpose of accommodating the preservation of existing native tree(s):

1. Up to five (5) percent of a required setback;

2. Up to five (5) percent of the required parking spaces.

This section may not be combined with any other section that allows variations from minimum property development regulations.

SEC. 7.6 EXCAVATION

A. **Purpose and intent.** It is the purpose and intent of this section to:

1. Regulate site development and land excavation practices which, individually or in cumulative effect, are destructive to Palm Beach County's natural resources;

2. Ensure that mining and excavation activities do not adversely impact the health, safety, and welfare of the citizens of Palm Beach County;

3. Deter the negative immediate and long-term environmental and economic impacts of poor land development practices;

4. Encourage the use of economically feasible and environmentally sound land development practices;

5. Preserve land values by ensuring that alteration of a parcel by non-commercial land excavation does not result in conditions that would prevent that parcel from meeting minimum Zoning Code requirements for other valid uses;

6. Encourage the incorporation of excavated sites into other beneficial uses by promoting economical, effective and timely site reclamation;

7. Protect existing and future beneficial use of surrounding properties;

8. Recognize that excess excavation material may be disposed of off-site provided that the excavation site is subject to a bona fide site development plan;

9. Establish a regulatory framework of clear, reasonable, effective, and enforceable standards and requirements for the regulation of excavation, mining, and related activities; and

10. Ensure that excavation and mining activities and resulting mined lakes are not allowed to become public safety hazards, and\or sources of water resource degradation or pollution.

B. **Applicability.** All mining and excavation activities within unincorporated Palm Beach County shall comply with the regulations established in this section and other State and local requirements, as applicable. The regulations of this section may be known as the "Palm Beach County Excavation Code".

1. Compliance with regulations of other applicable government agencies including but not limited to: the permitting process and standards of the SFWMD, Fresh Water Fish And Game Commission, DNR, DER, and ERM.

2. Where conflicts with applicable regulations occur, the more stringent regulation shall apply.

C. **Exemptions.** The following excavation activities shall be exempt from the requirements of this section:

1. Previously approved existing mined lakes which are:

   a. Regulated by a national Pollutant Discharge Elimination System Permit; or

   b. Regulated by a Florida Department of Environmental Regulation industrial wastewater operation permit; or

   c. Located within an approved residential, commercial, industrial or mixed-use development; and function as a stormwater management facility pursuant to either:

      (1) a surface water management permit or approval issued through the South Florida Water Management District; or

      (2) an applicable County land development process depicting proposed littoral and upland slopes of a mined lake;

   as long as the existing mined lake continues to meet the water quality standards contained in Chapter 17-302, F.A.C.

2. Swimming pools, as allow by Sec. 6.6.A.8. Swimming Pools and Clubs, commercial and private.

3. Small lily ponds, goldfish ponds, reflecting ponds, and other small ornamental water features with a maximum depth of four (4) feet OHW and not exceeding five hundred (500) square feet in surface area in conjunction with a valid building permit for a principal use.

4. Burial plots in approved cemeteries.

5. Excavations by Palm Beach County or the Florida Department of Transportation in the ultimate right-of-way of a road when that road is under construction.

6. Excavations for installation of utilities, including septic tanks.

7. The performance of repair, reconstructing, and maintenance dredging of existing non-tidal man-made canals, channels, control structures and associated riprap, erosion controls, and intake and discharge structures, where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material and drainage from the spoil site into surface waters of the state, provided no more dredging is performed than is necessary to restore the canal, channels, and intake and discharge structures to original design specifications, and provided that control devices are used at the dredge site to prevent turbidity and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging.

8. Canals of conveyance located in the West County Agriculture Area which are less than fifteen (15) feet in depth from OHW or canals that require permits from SFWMD, DER, or ERM pursuant to Sec 9.4.

9. Mitigation projects permitted by SFWMD, DER, or ERM, pursuant to Chapters 403 and 373, F.S., and Chapter 17-312, F.A.C., as amended, and Article 9 of this Code, including projects approved to implement an adopted Surface Water Improvement & Management (SWIM) plan. All excavation activities that have received permits pursuant to Section 9.4 of this Code.

10. All excavation activities that have received permits pursuant to Section 9.4 of this Code.

11. Agricultural ditches for vegetation production (i.e. groves, row crops, and tree farming) constructed solely in uplands that are less than six (6) feet in depth from OHW which meet the standards of bona fide agriculture (pursuant to Articles 3 and 6). These ditches shall not connect to canals of conveyance or waters of the State without the appropriate Federal, State, and Local approvals or permits.

D. **Prohibited Excavations**. The following types of excavation activities shall be prohibited:

1. Excavation of any archaeological grid site until preservation status is determined.

2. Type I (A) Sec. 7.6.E.1., Type I (B) Sec. 7.6.E.2., and Agricultural Sec. 7.6.E.3. excavations that require dewatering, unless otherwise permitted by a State or Federal permitting agency.

E. **Excavation Types:** Before commencement of any excavation, approvals shall be obtained pursuant to the procedures and standards of this section of the Code. The following excavation types are defined:

1. **Type I (A) excavation.** Type I (A) excavations shall be accessory to the construction of a single family residence with a lot area greater than one (1.0) acre. For excavation activities that meet these criteria see Article 6 (Use Regulation Schedule, Single Family).

2. Type I (B) excavation. Type I (B) excavation shall be accessory to the construction and/or use of a single family residence with a lot area greater than or equal to two and one half (2.5) acres. For excavation activities that meet these criteria see Article 6 (Use Regulation Schedule, Single Family).

3. Agricultural excavation. Agricultural excavation shall be permitted as a right in districts which permit bona fide agricultural production activities, provided the excavation is the minimum necessary to support the agricultural production operation, and the excavation activities comply with the procedures and standards of this subsection. For excavation activities that meet these criteria, see Section 7.6.G.1 (Specific Criteria for Agricultural Excavation).

4. West County Agricultural Area (WCAA) Excavations. All excavations required for bona fide agricultural activities located within the area bounded roughly by Lake Okeechobee, Palm Beach-Hendry County Line, and the South Florida Water Management District Levees L-4, L-5, L-6, L-7 and L-8 and has the agriculture production designation on the land use map in the land use element of the Palm Beach County Comprehensive Plan. For excavation activities that meet these criteria, see Section 7.6.G.2 (Specific Criteria for WCAA Excavations).

5. Type II excavation. Type II excavations shall be considered accessory to an activity for which a final site development plan has been approved. At a minimum, ninety (90) percent of the material to be excavated is to be used on-site. If less than ninety (90) percent of the material to be excavated is to be used on-site, special additional requirements listed in Sec.7.6.G.3.b.2. as applicable, must be met. For excavation activities that meet these criteria, see Section 7.6.G.3 (Specific Criteria for Type II Excavations).

6. Type III excavation. Type III excavation is permitted only after approval as a Class "A" Conditional use, pursuant to Article 5 (Class "A" Conditional use) and this section. For excavation activities that meet these criteria, see Section 7.6.G.4 (Specific Criteria for Type III Excavations).

F. General Criteria For Excavations. The following criteria are general requirements for excavation activities except where specified or noted differently:

1. The mined lake shall not be constructed within:

   a. Wellfield Zone 1 or 300 feet from a public water supply well, whichever is more restrictive;

   b. Two hundred (200) feet from a wetland;

   c. Three hundred (300) feet from a Class I or Class II Landfill;

   d. Three hundred (300) feet from a site with known contamination;

e. One hundred (100) feet from a sanitary hazard; or

f. One hundred (100) feet from a private drinking water well.

2. Sloping and Grading

a. Sloping and grading shall be conducted in such a manner as to minimize soil erosion and to make the land surface suitable for revegetation. In order to enhance slope stabilization, enhance site aesthetics and maximize potential for beneficial end use of the reclaimed site, no slope shall be steeper than four (4) feet horizontal to one (1) foot vertical to existing grade. Slopes shall be adequately vegetated within thirty (30) days of final grading and thereafter maintained to prevent wind and water erosion.

b. Overland sheet flow directly into the mined lake shall be minimized. Those areas within a maximum of fifty (50) feet of the mined lake may discharge run-off to the lake. Provided, however, that this restriction shall not apply to any catchment discharging runoff to a mined 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 in the approved plan.

3. Depth

a. Due to chloride or other water quality considerations, the maximum depth of the mined lake shall be twenty (20) feet of water at OHW.

b. The maximum depth of the mined lake shall be fifteen (15) feet OHW in the West County Agriculture Area, due to chloride considerations. This maximum may be exceeded if approved by ERM in writing if the applicant can provide adequate assurances that chloride levels shall not exceed two hundred and fifty (250) parts per million (PPM) within the mined lake based on ground water sampling prior to construction. Additional sampling may be required during and after construction.

c. A sediment sump may be constructed at the mined lake inlet to a depth of twenty-five (25) feet OHW. However, this sump shall be no greater than 5% of the mined lake area.

4. **Littoral Zones.**

a. **Planted littoral zones** shall be provided which comprise, at a minimum, an area equivalent to eight (8) square feet per linear foot of shoreline. The required area of planted littoral zone may be created by extending contiguous littoral zone areas waterward or by creating islands within the water body; both options are encouraged. Any areas of planted littoral zone shall not be steeper than six (6) feet horizontal to one (1) foot vertical. The maximum depth of the planted area shall be minus three (-3) feet from OHW. The littoral zone shall be provided with a minimum of three (3) inches of topsoil to promote vegetative growth. The littoral zone shall be planted with appropriate native wetland vegetation, spaced not more than three (3) feet on center or as approved by ERM.

b. **Unplanted littoral zone areas** shall not be steeper than four (4) feet horizontal to one (1) foot vertical to a minimum depth of minus two (-2) feet from OHW. The littoral zone shall be provided with a minimum of three (3) inches of topsoil to promote vegetative growth.

c. **Bulkheads** may be allowed, provided that for each linear foot of bulkhead as measured at OHW, an additional eight (8) square feet of compensatory planted littoral zone shall be required. The compensatory planted littoral zone shall be provided in addition to the planted littoral zone required under (a) above; thus for the length of a bulkhead, sixteen (16) square feet of littoral shall be required.

d. **Slopes below a depth of minus two (-2), or minus three (-3) feet from OHW for planted littoral areas** shall not exceed two (2) feet horizontal to one (1) foot vertical or the natural angle of repose for the specific conditions encountered.

e. **Planting procedure and plans.** The written approval from the Director of ERM shall be received prior to planting. Plans shall be submitted at the time of the submission of the preliminary plat, or if no plat approval is involved, prior to commencement of construction, regrading, or modification. The plans shall detail the species of plants to be used, the location and dimensions of the littoral area, the location and dimensions of any structure for which a compensatory littoral area is required, the location and dimensions of the compensatory littoral area, the methods for planting and ensuring survival of the plants, and other reasonable matters required by the Director of ERM.

f. **Plans.** The design and species shall be such that the plants as shown on the plans have an anticipated survival rate of at least eighty (80) percent at the end of one (1) year after planting. The signatory of the plans and specifications shall have a personal familiarity with the site and soil conditions based upon a field review. The plans shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project. After the plans have been reviewed for compliance to the standards listed in section 7.6.F.4, the Director of ERM shall approve the plans in writing.

g. **List of plants.** The Director of ERM shall maintain a list of acceptable species of plants for use in littoral zones. The list may be amended for general application as more information becomes available. The list shall be open for public inspection and distribution.

h. **Timing of Planting.** Planting of the entire mined lake shall occur no later than immediately prior to the issuance of the first certification of occupancy for any lot adjacent to or abutting the bank of that lake. For large single lake systems, ERM may approve in writing a phasing plan for planting the system that would allow lake planting to be phased. For multi-lake systems, each separate lake shall be treated individually for planting purposes. At all times, applicant is responsible for minimizing erosion of the littoral shelves until the planting is completed.

i. **Maintenance and monitoring.** The following maintenance and monitoring program shall be followed for all planted littoral zones.

(1) The littoral zone shall be inspected and monitored for one year after planting. During this one year maintenance and monitoring period, maintenance and monitoring shall occur 90, 180 and 360 days after planting. The maintenance and monitoring program shall consist of the following:

(a) Inspections, monitoring, exotic removal and replanting during each monitoring period to maintain the minimum eighty percent (80%) survivorship criteria for the planted littoral zone;

(b) Complete removal of exotic and invasive plant species such as cattails, primrose willows and water hyacinth, from the planted littoral zone until the required planted species attain coverage of seventy percent (70%) of the planted littoral zone.

(c) The submittal of a monitoring report to ERM representing a time zero monitoring, to be completed within thirty (30) days of initial planting; ninety (90) day, one hundred eighty (180) day and three hundred sixty (360) day monitoring reports, each report submitted to ERM within thirty (30) days of the completion of the monitoring period.

(d) Each monitoring report shall assess the species, numbers, locations of planted littoral zone shelves, and multiple photographs (panoramas are preferred) of the site clearly depicting the entire littoral zone planting. Photographs must be taken at approximately the same location(s) each time. In addition, the report shall detail the species, numbers and locations of additional plantings that were made to attain the eighty percent (80%) survivorship criterion, if such plantings were necessary.

(2) After the first year, the land owner or entity having maintenance responsibility for the planted littoral zone shall maintain the littoral zone in the following manner:

(a) A minimum of eighty percent (80%) survivorship and a minimum of seventy percent (70%) coverage of the planted littoral zone is required.

(a) Exotic and invasive plant species such as cattails, primrose willows and water hyacinth, shall be restricted to less than ten percent (10%) of the required planted littoral zone.

j. Littoral area of record. The littoral area shall be graphically or verbally identified on the applicable plat, or if the plat is already recorded or the property is not required to be platted, by a separate instrument to be recorded. Said area shall be specifically and separately reserved to owner, or if applicable, to the property owners' association as its perpetual maintenance responsibility, without recourse to Palm Beach County or other governmental entity or agency. The plat or instrument shall provide that the littoral area shall exist from the edge of water at OHW to a depth of not more than minus three (-3) feet and with sufficient square footage to comply with the provisions of this section. The plat or property owners association documents or other instrument of record shall contain the following statement:

> It is a punishable violation of Palm Beach County Laws, Ordinances, Codes, Regulations and approvals to alter the approved slopes, contours or cross sections or to chemically or manually remove, damage, destroy, cut or trim any plants in the littoral zone in the water management tract except upon the written approval of the Director of ERM. It is the responsibility of the owner or property owners association, its successors or assigns, to maintain the littoral zone(s).

k. **Repair, reconstruction modification.** Any repair, reconstruction, installation of structures or modification, except ordinary maintenance, to the water management tract, lake maintenance easement, littoral zone, or any planting or structure approved pursuant to this subsection, shall be done only after receipt of written approval from the Director of ERM pursuant to this subsection.

5. **Water quality.** The mined lake shall be designed and maintained to meet minimum criteria for surface water as set forth under Chapter 17-302, F.A.C..

6. **Hauling Material Off Site.** All trucks hauling materials off-site shall be covered to prevent debris and fill from spilling on the road. The County Engineer may impose appropriate special conditions for Type II (that require removal of more than ten (10) percent excess fill off site) and III excavations to ensure compliance with the purpose and intent of this section.

7. **Objectionable odors.** The excavation activity shall be conducted in such a manner as to prevent the occurrence of water which creates objectionable odors.

8. **Existing topsoil.** Where feasible, existing topsoil shall be stored and redistributed on-site to provide adequate growing conditions for the revegetation of plant species. Where such storage is not feasible, the area shall be restored with soil of an equal or better quality than that of the excavated topsoil and be redistributed to provide adequate growing conditions.

9. **Hours of operation.** Excavation activity shall only occur between the hours of 7:00 A.M. and 7:00 P.M. (WCAA exempt).

10. **Emissions of fugitive particulate matter.** Excavations shall be operated so as to prevent the emission of dust or other solid matter into the air or on adjacent properties pursuant to Sec. 7.8.F (Smoke, emissions and particulate matter) and Rule 17-2.610(3), F.A.C.

11. **Final site conditions.** No sharp declivities, pits, depressions, or debris accumulation shall remain after rehabilitation. Final grading shall conform to the contour lines and grades on the approved site rehabilitation plan.

12. **Surety Requirements for Littoral Plantings for Agricultural and Type III Excavations.**

a. Except in the case of an application by a political subdivision or agency of the State, all applicants shall, prior to approval, guarantee performance of the project according to the terms of the Notice of Approval by providing to ERM one (1) of the following instruments:

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

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

(3) A performance bond issued by a Florida registered surety company having a Best's rating of A+. Said bond may be canceled only upon written 60-day advance notice given to ERM;

(4) A clean, irrevocable letter of credit which must be executed on a form provided by Palm Beach County; or

(5) Unless otherwise approved in writing by ERM, performance bonds or letters of credit shall be on forms provided by Palm Beach County.

b. The performance guarantee shall be a minimum of $10,000 and shall be an amount of no less than of one hundred and ten (110) percent of the total estimated cost for planting, maintaining, and monitoring the required littoral shelves. ERM retains the option for requesting a second cost estimate for which the performance guarantee is based.

c. The performance guarantee shall be executed by a person or entity with a legal or financial interest in the property and shall remain in effect a minimum of seven hundred thirty (730) days (2 years) after the mining operation or reclamation is completed in accordance with this section and is accepted by ERM in writing. Transfer of title to the subject property shall not relieve the need for the performance guarantee. The seller shall maintain, in full force and effect, the original performance guarantee until it is replaced by the purchaser.

d. Should Palm Beach County find it necessary to use the performance guarantee to undertake any corrective work on the littoral shelves or to correct water resource impacts from the excavation, the applicant shall be financially responsible for all legal fees and associated costs incurred by Palm Beach County in recovering its expenses from the firm, corporation or institution that provided the performance guarantee.

e. The surety shall be released upon successful completion of all conditions of the Notice of Approval, such as meeting the survivorship criteria and completing the required maintenance and monitoring program.

f. The applicant shall submit a signed affidavit stating that a restriction shall be placed on the property deed so that all littoral plantings shall be maintained in perpetuity.

13. Additional surety requirements for Type III Excavations (upland reclamation).

a. Except in the case of an application by a political subdivision or agency of the State, a rehabilitation and reclamation surety shall be posted in the amount of two thousand five hundred dollars ($2,500) per acre for the total acreage included in the conditional use, unless bonded in phases, as approved by the Director of Zoning.

b. The surety shall:

(1) Be assigned to the Board of County Commissioners.

(2) Be one (1) of the following instruments:

(a) A cash deposit or certificate of deposit assigned to Palm Beach County;

(b) An escrow agreement for the benefit of Palm Beach County;

(c) A performance bond issued by a Florida registered surety company having a Best's rating of A+. Said bond may be canceled only upon written 60-day advance notice given to PZB; or

(d) A clean, irrevocable letter of credit which must be executed on a form provided by Palm Beach County.

c. The performance guarantee shall be executed by a person or entity with a legal or financial interest in the property and shall remain in effect a minimum of seven hundred thirty (730) days (2 years) after the mining operation or reclamation is completed in accordance with this section and accepted by the Director of Zoning. Transfer of title to subject property shall not relieve the need for the performance guarantee. The seller shall maintain, in full force and effect, the original performance guarantee until it is replaced by the purchaser.

d. Should Palm Beach County find it necessary to use the performance guarantee to undertake any corrective work on the mined area, to complete the mined area or reclamation under the terms of this section, the applicant shall be financially responsible for all legal fees and associated costs incurred by Palm Beach County in recovering its expenses from the firm, corporation or institution that provided the performance guarantee.

e. The surety shall be released upon the submission and approval of all the following items to the Development Review Committee:

(1) Written certification by an engineer registered in the State of Florida that all performance guarantees have been satisfied; and

(2) A certified "as-built" drawing as required by the Code.

f. In the event that rehabilitation and reclamation are to be conducted in phases, the following additional requirements shall apply:

(1) A phasing plan is to be submitted indicating:

(a) Exact acreage of each phase;

(b) Proposed duration of excavation and rehabilitation of each phase; and

(c) Proposed replacement tree planting plan.

(2) The Development Review Committee must approve the phasing plan.

(3) Reclamation and rehabilitation surety for the specific phases shall not be released until reclamation and rehabilitation has been completed in accordance with the approved reclamation and rehabilitation plan and certified in writing by an engineer registered in the State of Florida.

(4) Upon commencement of reclamation and rehabilitation of the initial phase of excavation, the next phase of excavation may commence upon written authorization by ERM. The applicable bond must be on file prior to authorization for the commencement of excavation on any subsequent phase.

G. Specific Criteria. All non-exempt excavation activities must meet the requirements contained in the General Criteria Sec. 7.6.F (except where exempted by this section) and the following specific criteria for the type of excavation activity as listed below:

1. Agricultural Excavations: All Agricultural Excavations must meet all the General Criteria in Section 7.6.F and the following additional requirements:

a. Standards.

(1) Minimum Necessary To Support Bona fide Agricultural Use.

(a) A detailed site plan showing all proposed excavation, including boundaries and acreage, depths, and the standards of Section 7.6.F.(1,2,3,&4.a);

(b) A listing of the nature of the excavation operation, including materials expected to be excavated;

(c) A detailed (written and graphic) explanation of the proposed bona fide agricultural use. This explanation shall demonstrate consistency with applicable Industry Standards and shall satisfy the definition requirements of bona fide agriculture pursuant to Article 3.

(2) Setback. No excavation shall be conducted within fifty (50) feet of the property line or in any area prohibited in this Code or any other regulation, state, federal or local.

b. Application Procedures.

(1) For Land Use. Any person proposing to initiate Agricultural Excavation activities, shall submit an application for an Agricultural Excavation approval to the Zoning Director. This application shall include the requirements of Section 7.6.G.1.a.

(2) Determination of sufficiency review and decision.

(a) Agricultural excavation one (1) acre or less in surface area. Excavation consisting of one (1) acre or less in surface area shall be subject to Development Review Committee review and approval, pursuant to Article 5 of this Code. After the application has been determined complete, it shall be approved, approved with conditions, or denied in writing by the Development Review Committee.

(b) Agricultural excavation greater than one (1) acre in surface area. Agricultural excavation greater than one (1) acre in surface area shall be subject to the submission, review and approval, approval with conditions or denial procedures and standards of a conditional use "A" process, pursuant to Article 5 of this Code and all standards for agricultural excavation herein.

(3) For Construction. The following items are required:

(a) **Notice of Intent to Construct.** A Notice of Intent to Construct shall be submitted to ERM prior to the construction of any mined lake. The Notice shall be accompanied by drawings of sufficient detail to demonstrate adherence to the provisions of this section and the General Criteria Section and shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project; and

(b) A Fee as established by the approved Fee Schedule.

(c) Upon receipt by ERM of a Notice of Intent to Construct and appropriate fee with all information necessary to demonstrate that the provisions of these sections will be met, ERM shall issue a Notice of Approval within thirty (30) days.

2. West County Agricultural Area (WCAA) Excavations: WCAA excavations must meet all of the following requirements:

a. Standards. The following criteria shall apply to all mined lakes in the WCAA:

(1) General Criteria Section 7.6.F.1,3,5,6,7,8,10, and 11; and

(2) Slopes shall not be steeper than four (4) feet horizontal to one (1) foot vertical to a minimum depth of minus two (-2) feet OHW.

b. Application Procedures.

(1) For Construction. The following items are required:

(a) Notice of Intent to Construct. A Notice of Intent to Construct shall be submitted to ERM prior to the construction of any mined lake. The Notice shall be accompanied by drawings of sufficient detail to demonstrate adherence to the provisions of this section and the General Criteria Section as required and shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project; and

(b) A Fee as established by the approved Fee Schedule.

(c) Upon receipt by ERM of a Notice of Intent to Construct and appropriate fee with all information necessary to demonstrate that the provisions of these sections will be met, ERM shall issue a Notice of Approval within thirty (30) days.

3. Type II Excavations: All Type II Excavations must meet all the General Criteria in Section 7.6.F (except 7.6.F.12 and 7.6.F.13) and the following additional requirements:

a. Standards.

(1) Setback. No excavation shall be conducted within fifty (50) feet of the property line or in any area prohibited in this Code or any other regulation, state, federal or local.

b. Application Procedures.

(1) **For Land Use.** Any person proposing to initiate Type II excavation activities as part of the development of a site development plan, shall submit to PZB a Development Review Committee application and a letter of intent to excavate on a form provided by the Zoning Division. This letter of intent shall include the following items:

(a) A detailed site plan showing all proposed excavation, including boundaries and acreage, depths, and the standards of Section 7.6.F.(1,2,3,&4.a);

(b) A listing of the nature of the excavation operation, including materials expected to be excavated;

(c) A complete vegetation removal permit application;

(d) Calculations for the entire project detailing the amount of material to be excavated, the amount of excavated material to be used on-site, and the percentage of excavated material to be disposed of off-site;

(e) 1:200 aerial or better clearly depicting the site; and

(f) A fee, as adopted by the established Fee Schedule.

(2) **Determination of sufficiency, review and decision.** The application shall be reviewed as part of the application for the development permit. The Type II excavation component of the site development plan application shall be approved, approved with conditions, or denied based on the standards established in Sec.7.6.G.3.(a.1. & b.1.) and the following requirements:

(a) If less than ninety (90) percent of the excavated material is proposed to be used on-site, the applicant may opt to demonstrate that due to certain unusual site conditions, more than ten (10) percent of the excavated material must be removed to develop the approved site plan. If staff agrees that such abnormal conditions exist, the application may be approved pursuant to Sec. 6.E.3.a.(2) (Determination of sufficiency, review and decision). Such unusual conditions may, for example, be the existence of an abnormal amount of silt, rock, muck, or excess fill resulting from required drainage improvements.

(b) If less than ninety (90) percent of the excavated material is proposed to be used on-site and no unusual conditions exist justifying removal of more than ten (10) percent of the excavated material from the site, the applicant must obtain Class "A" Conditional use approval of the excavation activity pursuant to the standards of Article 5 (Class "A" Conditional uses) and Sec. 7.6.G.4. (Type III excavation), prior to approval of the site plan.

(3) For Construction. The following items are required:

(a) **Notice of Intent to Construct.** A Notice of Intent to Construct shall be submitted to ERM prior to the construction of any mined lake. The Notice shall be accompanied by drawings of sufficient detail to demonstrate adherence to the provisions of this section and the General Criteria Section as required and shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project; and

(b) A Fee as established by the approved Fee Schedule.

(c) Upon receipt by ERM of a Notice of Intent to Construct and appropriate fee with all information necessary to demonstrate that the provisions of this section will be met, ERM shall issue a Notice of Approval within thirty (30) days.

4. Type III Excavations: All Type III Excavations must meet all the General Criteria in Section 7.6.F and the following additional requirements:

a. Standards.

(1) Incompatibility of land uses. All Type III excavations shall be reviewed to assure that the proposed excavation is compatible with the surrounding land uses. PZB shall not recommend that an application be approved by the Board of County Commissioners where staff finds that the approval would create an incompatibility of land uses. The "incompatibility of land uses" refers to issues arising from the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including the impacts of noise, vibration, smoke, odors, toxic matter, radiation, and similar environmental conditions.

(2) Buffer Size. Type III excavation activities shall be separated and buffered from incompatible uses as provided by Table 7.6-1 below. Separations shall be measured from the nearest adjacent property line inward to the top slope line of the nearest excavation activity. The Zoning Division may recommend to the Board of County Commissioners that the required separation distance be altered based on the compatibility of the use with the adjacent area, and the remoteness or proximity and number of adjacent incompatible uses.

TABLE 7.6-1
PERIMETER BUFFERS

Adjacent Land Use	Minimum Separation	Minimum Buffer Height	Minimum Buffer Width
Residential	⅛ mile	12 feet	25 feet
Residential	¼ mile	8 feet	20 feet
Residential	½ mile	6 feet	15 feet
Commercial	⅛ mile	6 feet	15 feet
Light Mfg.	⅛ mile	6 feet	15 feet
Agricultural	⅛ mile	6 feet	15 feet

(3) Buffer Planting. The buffer shall consist of a planted earthen berm or a solid landscape barrier, or combination of berm and landscaping, of the height and width described in Table 7.6-1 above. The buffer shall be planted and maintained in accordance with the standards of Sec. 7.3.H. (Installation, maintenance, irrigation and replacement).

(4) Setbacks. No buildings or structures accessory to Type III excavation activities shall be located closer than one hundred (100) feet from any property line, canal or easement. Where deemed necessary, the Zoning Director shall increase the width of the setback area to a greater dimension if it is necessary to adequately buffer conflicting land uses. Setbacks shall be measured from the nearest adjoining property line inward. Except for the planted buffer area and an approved access area, existing native vegetation within the setbacks shall not be disturbed or removed. In all cases the disturbed excavated area shall have a setback of fifty (50) feet from all property lines.

(5) Rehabilitated Perimeter. A rehabilitated perimeter around the excavation shall have the following dimensions surrounding the total perimeter of the conditional use:

(a) One hundred eighty (180) foot width surrounding fifty (50) percent of the total conditional use area.

(b) One hundred (100) foot width surrounding the remaining fifty (50) percent of the total conditional use area.

(6) Upland Reclamation Requirements. A minimum of five (5) native plant species shall be used to satisfy the following requirements:

(a) The equivalent of one (1) native tree measuring eight (8) feet in height and two (2) native understory seedlings measuring eighteen (18) inches in height per 3,500 square feet of disturbed excavated area designated as a reclamation area.

(b) All disturbed areas shall be planted or seeded with native ground cover to reduce the loss of topsoil and to prevent the establishment of prohibited plant species.

b. Application Procedures.

(1) For Land Use. All Type III excavation activities shall be approved as a Class "A" Conditional Use. These standards shall prevail over less restrictive standards applicable to such operations imposed by this Code or other laws. Any person requesting approval for Type III excavation shall submit an excavation application for the entire parcel to the Zoning Division.

The application for Type III excavation shall include the following items:

(a) All application contents required by a special exception application;

(b) A precise site plan showing all proposed excavation, including boundaries, depths, acreages, and the standards of Sections 7.6.F (General Criteria), and 7.6.G.4.a. (Specific Criteria);

(c) A listing of the nature of the operation including expected amount and type of materials to be excavated;

(d) A site plan showing fencing and buffering, including a detailed landscaping plan;

(e) An erosion and fugitive particulate control plan; erosion control strategies may include plants as approved by ERM, mulching, stabilizing, or other techniques;

(f) The reclamation plan submitted to and approved by PZB based on the standards set forth below. Except where Type III Excavation is conducted prior to development of an approved planned development, the bona fide site plan shall serve as the reclamation plan;

(g) A complete vegetation removal permit application;

(h) 1:200 aerial or better clearly depicting the site; and

(i) A fee, as adopted by the established Fee Schedule.

(2) Determination of sufficiency, review and decision. After receipt of an application requesting a Type III excavation permit, the Zoning Director shall determine whether it is complete within ten (10) working days. If it is determined the application is not complete, notice shall be served on the applicant specifying the deficiencies. No excavation application shall be certified for the planning commission prehearing conference unless the application has been determined sufficient. After the application has been certified, it shall be reviewed consistent with the conditions and provisions of Chapter I, Sec. 102 and Article 5 and Sections 7.6.F. (General Criteria), and 7.6.G.4.a. (Specific Criteria) of this Code and be approved, approved with conditions or denied.

(3) For Construction. The following items are required:

(a) Notice of Intent to Construct. A Notice of Intent to Construct shall be submitted to ERM prior to the construction of any mined lake. The Notice shall be accompanied by drawings of sufficient detail to demonstrate adherence to the provisions of this section and the General Criteria Section and shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project; and

(b) A Fee as established by the approved Fee Schedule.

(c) Upon receipt by ERM of a Notice of Intent to Construct and appropriate fee with all information necessary to demonstrate that the provisions of this section will be met, ERM shall issue a Notice of Approval within thirty (30) days.

H. Variance From Construction Criteria For Type II, III, Agricultural, and WCAA Excavations.

1. A variance from the construction criteria contained in Section 7.6.F for Agricultural, WCAA, Type II, and III excavations may be granted by ERM to a person who demonstrates, by a preponderance of evidence, that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare, and that special or unique circumstances exist to justify the variance based on one or more of the following conditions:

   a. That the literal application of these standards will create an unreasonable hardship and that the special and unique circumstances do not result from the actions of the applicant;

   b. That appropriate technology and methods will be used to insure consistency with the intent of the Code; or

   c. That granting of the variance will be in harmony with the general intent and purpose of the Code.

2. The variance request shall be accompanied by drawings of sufficient detail to provide the information needed to determine if a variance is appropriate. The variance request and drawings shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project. The variance request shall be accompanied by a fee as established by the Approved Fee Schedule.

3. **General.** No variance shall be approved within Wellfield Zone 1 or within 300 feet of a public drinking water well, whichever is more restrictive, nor for any mining operation location which will reduce hydraulic recharge distances to a public water supply well in excess of 2 percent.

4. **Review Process.** Upon receipt of a request for a Variance from the Construction Criteria, ERM shall have thirty (30) days to request any additional information.

   (a) Within thirty (30) days of receipt of the requested additional information, ERM may only request information needed to clarify the additional information supplied or to answer new questions raised by or directly related to the additional information.

   (b) If ERM does not make a request for additional information within thirty (30) days of receipt of the request for a Variance from Construction Criteria, the variance request shall be deemed complete upon receipt.

   (c) If an applicant fails to respond to a ERM request for a variance request fee or any additional information within sixty (60) days, the variance request may be denied without prejudice. However, ERM may grant an extension of time as is reasonably necessary to fulfill the request for additional information.

(d) Upon receipt of a completed request for a Variance from Construction Criteria, ERM shall have sixty (60) days to take final action, unless the time period is waived by the applicant. ERM action shall be approval of the variance request and issuance of a Notice of Approval or denial of the variance request.

I. Violations, Enforcement, and Penalties.

1. Violations. For each day or portion thereof, it shall be a violation of this Code to:

a. Fail to comply with the requirements of this section or of any approval or exemption granted or authorized hereunder;

b. Alter or destroy the approved depths, slopes, contours, or cross-sections;

c. To chemically or manually remove, damage, destroy, cut, or trim any plants in the littoral zones, except upon written approval by the Director of ERM;

d. To dredge, excavate, or mine an area without prior receipt of approval(s) from ERM and/or PZB; or

e. To cause water quality violations in excess of the standards contained in F.A.C. Chapter 17-302.

2. Fines. Violations of the provisions of this section shall be punishable by:

a. Triple fees for approvals not obtained prior to violations; and

b. A fine not to exceed five hundred dollars ($500) per day per violation; or

c. Imprisonment in the County jail not to exceed sixty (60) days or by both fine and imprisonment upon conviction, pursuant to the provisions of Section 125.69, F.S.

3. Restoration. Damage to the littoral shelves and/or littoral plants may result in an order to restore to the approved conditions.

4. Review board. Violations of this section may be referred by ERM and/or PZB to the Groundwater and Natural Resources Protection Board for corrective actions and civil penalties.

5. Additional Sanctions. In addition to the sanctions contained herein, the County may take any other appropriate legal action, including but not limited to, temporary and permanent injunctions, to enforce the provisions of this Section.

J. **Appeals.** An applicant may appeal a final determination made by the Director of either PZB or ERM to the Environmental Ordinance Appeals Board pursuant to this Section. The applicant shall comply with the following appeal procedures:

1. **Submittal.** An appeal must be made within twenty (20) days of the applicant's receipt of the final action.

2. **Hearing.** Each hearing shall be held within sixty (60) days of submittal of all documents which the Environmental Ordinance Appeals Board deems necessary to evaluate the appeal.

   a. At the conclusion of the hearing, the Environmental Ordinance Appeals Board shall orally render its decision (order), based on the evidence entered into record.

   b. The decision shall be stated in a written order and mailed to the applicant not later than ten (10) days after the hearing.

   c. Written order of the Environmental Ordinance Appeals Board shall be final.

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

SEC. 7.7 DRIVEWAYS AND ACCESS.

A. **Purpose and intent.** It is the purpose and intent of this section to promote safe and efficient traffic movement while affording reasonable access to abutting land.

B. **Driveways.** Driveways shall be subject to the following standards.

1. **Spacing.**

a. **Local or residential access streets.** Driveways for single family lots along local or residential access streets at interior locations shall be located no closer than two (2) feet from a side or rear land line. In no case shall more than two (2) driveways per lot be permitted along local or residential access streets.

b. **Arterial and collector streets.** Driveway locations and spacing shall be accordance with the County standards for street connections along arterial and collector roads. Provided, however, that driveway connections to any road which is part of the State Highway System, as defined in Sec. 334.03, Fla. Stat., shall meet the permit requirements of FDOT for street connections, pursuant to Sec. 335.18, Fla. Stat.

2. **Construction.** Driveway connections to streets under the jurisdiction of Palm Beach County shall be constructed in accordance with the County standards . Construction standards and details for driveways shall be available from the DEPW.

C. **Double frontage lots.** Where a double frontage residential lot is located adjacent to a collector or an arterial road, it shall also be required to front on a local or residential access street. A limited access easement shall be placed along the land line that abuts either the collector or arterial road.

D. **Exceptions.** The County Engineer shall have the authority to grant a permit for driveway and access plans with lesser or greater dimensions than designated in this section, giving consideration to the following factors:

1. Lot size;
2. Lot configurations;
3. Proposed land use;
4. Traffic generation or anticipated traffic volume along adjoining rights-of-way;
5. Traffic characteristics of the land use;
6. Driveway locations on contiguous land or land on the opposite side of the street;
7. Median opening locations;
8. Safe sight distance; and
9. Such other factors as may be deemed pertinent by the County Engineer.

SEC. 7.8 MISCELLANEOUS STANDARDS.

A. Performance Standards.

1. **Purpose and intent.** The purpose and intent of this section is to eliminate and regulate sources and occurrences of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire and explosive hazards or glare that interfere with the peaceful enjoyment of land or which are contrary to the public health, safety or welfare or constitute a nuisance to the public at-large.

2. **Applicability.** This section shall apply to all development within unincorporated Palm Beach County unless specifically exempted pursuant to Sec. 7.8.C.

3. **Exemptions.** The following shall be exempted from the standards of this section.

   a. Sound emitted from the operation of motor vehicles legally operating on any public right-of-way which are regulated by Chapter 316, Fla Stat., the Uniform Traffic Control Law.

   b. Any noise generated by interstate motor and rail carriers and aircraft or airport operations. Any other subjects to the extent preempted by applicable State or Federal laws or regulations.

   c. Any noise generated as a result of emergency work, as a danger warning device, or for the purpose of alerting persons to the existence of any emergency.

   d. Any noise generated by any government sanctioned activity conducted on public land.

   e. Any noise generated within any public right-of-way, including parades, when appropriately sanctioned by the governing body.

   f. Non-amplified crowd noises at sporting events.

   g. Any noise emitted from a source located within the Research and Technology Overlay (R&T-O) district.

4. Noise.

a. Maximum permissible sound levels.

(1) Specific prohibitions. The following activities shall be prohibited.

(a) Horns, signaling devices. The sounding of any horn or audible signal device of any motor vehicle, boat, train, engine, machine or stationary boiler of any kind except as required by law or as a warning. The sounding of any warning device for an unnecessary or unreasonable period of time is also prohibited.

(b) Public streets and parks. The operating or playing of any radio, television, phonograph, musical instrument or similar device on the public rights-of-way or in public parks in a manner as to be plainly audible at a distance of one hundred (100) feet from the sound source.

(c) Loud speakers and sound amplifiers. The using or operating of any loud speaker, loud speaker system, sound amplifier or other similar device between the hours of 11:00 PM and 7:00 AM on weekdays and 11:00 PM and 10:00 AM on weekends and holidays, within or adjacent to inhabited residential land such that the sound therefrom is plainly audible across the land line of the inhabited residential land. This section shall not apply to any special events, such as parades, festivals or sporting events, but shall apply to lounges, restaurants or night clubs.

(d) Street sales advertising. The use or operation of any loudspeaker, sound amplifier or musical instrument which produces or reproduces sound which is cast or emitted upon the public streets and sidewalks for the purpose of commercial advertising or for attracting the attention of the public to any particular building, structure or place when such sound that is emitted is plainly audible across the land line of any inhabited residential land.

(e) Machinery construction work. The operation of any machinery, demolition equipment, construction equipment, excavating equipment, power tools, equipment of semi-mechanical devices or undertaking construction work which emits sound across the land line of an inhabited residential land between the hours of 10:00 PM and 7:00 AM. This shall not prohibit the use of pumps or machinery which, because of its very nature and purpose, is required to be operated twenty-four (24) hours a day.

(f) Lawn equipment. The operation of lawn and garden equipment which emits sound across the line to inhabited residential land between the hours of 10:00 PM and 7:00 AM.

(2) General prohibitions. No person shall operate or cause to be operated any source of sound from any location in such a manner as to create a sound level which exceeds the limits set forth in Table 7.8-1 for inhabited residential and commercial land more than ten (10) percent of any measurement period, which period shall not be less than ten (10) minutes when measured at or within the boundary of the complaining landowner. For the purpose of this section, inhabited shall mean regularly occupied by the complainant and occupied at the time of complaint. Sound Level Measurement shall be made with a Type 2 or equivalent sound level meter using the A-Weighting Scale in accordance with the standards of the American National Standards Institute (ANSI). All measurements shall be made with a sound meter at or within the boundary of the complaining landowner.

TABLE 7.8-1:
PROHIBITED SOUND LEVELS

Receiving Land	Noise Source	Time of Day	Sound Level Limit
Residential	Fixed mechanical equipment	Any time	60 DBA
Residential	All other sources	7 AM to 8 PM	60 DBA
		8 PM to 11 PM	55 DBA
		11 PM to 7 AM	50 DBA
Commercial	All sources	Any time	70 DBA

b. Public nuisance/injunctive relief. Any emission of noise from any source in excess of the limitations established in or pursuant to this section shall be deemed and is hereby declared to be a public nuisance. Upon receipt of written complaint of violation of this section, the Code Enforcement Officer may investigate and request the County Attorney to file injunctive proceedings to abate the nuisance. Such proceedings shall be cumulative and in addition to the penalties provided herein.

5. Vibration.

a. Non-industrial districts. In all districts except the IL, IG and PIPD districts, no use shall be operated so as to produce ground vibration noticeable without instruments, at the lot line of the premises on which the use is located.

6. Smoke, emissions and particulate matter.

a. Generally. No use or activity shall be operated except in full compliance with the standards controlling air pollution as provided in the laws of the State of Florida, Palm Beach County Public Health Unit (PBCPHU) and the ordinances of Palm Beach County.

b. Smoke. In all districts, unless otherwise covered by a specific visible emission limiting standard by a FDER Rule or County Ordinance, every use shall be operated so as to prevent the emission of smoke from any source whatever, the density of which is equal to or greater than that designated as Number 1 on the Ringlemann Chart, or the opacity of which is equal to or greater than twenty (20) percent. For the purpose of grading the density of smoke, the Ringlemann Chart, as published and used by the United States Bureau of Mines, or Method 9, as published in Chapter 17-2 F.A.C. and used by DER, is incorporated herein by reference. All measurements shall be at the point of emission.

c. Dust and particulates. Every use shall be operated to prevent the emission into the air of dust or other solid particulate matter which may cause danger to land and the health of persons or animals at or beyond the lot line of the premises on which the use is located.

7. Odors. No use shall be operated so as to produce the emission of objectionable or offensive odors in such concentration as to be readily perceptible at any point at or beyond the lot line of the land on which the use is located. Table III, chapter 5, *Air Pollution Abatement Manual* of the Manufacturing Chemists' Associating, Inc., Washington, D.C., is hereby adopted as a guide in determining the quantities of offensive odors, as are the guides and standards contained in the prohibitions against air pollution of the FDER.

8. Toxic or noxious matter. No use shall for any period of time, discharge across the boundaries of a lot on which it is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or general welfare, or cause injury or damage to persons, land, or the use of land, or render unclean the waters of the state to the extent of being harmful or inimical to the public health, or to animal or aquatic life, or to the use of such waters for domestic water supply, industrial purposes, recreation, or other legitimate and necessary uses.

9. Radiation. Any operation involving radiation, i.e., the use of gamma rays, X-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other atomic or nuclear particles, shall be permitted only in accordance with the codes, rules, and regulations of the State Department of Health and Rehabilitative Services, Office of Radiation Control and FDER.

10. Electromagnetic radiation and interference.

a. Radiation. No person shall operate or cause to be operated for any purpose any planned or unplanned source of electromagnetic radiation which does not comply with the current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. Any operation in compliance with the Federal Communications Commission regulation shall be deemed unlawful if such radiation causes an abnormal degradation of performance of any electromagnetic receptor of quality and proper design. The determination of "abnormal degradation of performance" and "of quality and proper design" shall be made in accordance with good engineering principles and the standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Electronic Industries Association.

b. Interference. No use, activity, or process shall be conducted which produces electromagnetic interference with normal radio or television reception in any district.

11. Drainage. For all development in all districts, drainage shall be designed, constructed and maintained in accordance with the drainage and stormwater management standards of Article 8, Subdivisions, Platting, and Required Improvements.

B. Outdoor lighting standards.

1. Purpose and intent. The purpose and intent of this section is to reduce the hazard and nuisance caused by the spillover of light and glare on to drivers, pedestrians and land uses near artificial lights. By allowing safe and efficient lighting of outdoor areas and by reducing the negative effects of exterior lighting, the regulations contained in this section are intended to promote land use compatibility, traffic and pedestrian safety, energy efficiency and community appearance. Outdoor lighting shall also be consistent with the Palm Beach County Security Code and Sec. 9.1, (Coastal Protection).

2. **Applicability**. This section shall apply to all exterior lighting in unincorporated Palm Beach County, except street lights that meet the requirements of the appropriate public utility.

3. **Outdoor lighting standards**. Outdoor lighting shall meet the following standards.

   a. **Light confinement**. All outdoor lights shall, to the greatest extent possible, confine emitted light to the property on which the light is located, and shall not be directed upwards, to avoid urban sky glow.

   b. **Spillover light**. Spillover light on to residential property shall not exceed three-tenths (0.3) of one footcandle when measured six (6) feet above grade at the residential property line.

4. **Prohibited lights**. The following types of lights are prohibited in unincorporated Palm Beach County:

   a. Any unshielded light source in a luminaire with no light cutoff that is visible within the normal range of vision from any residential property;

   b. Any light that creates glare observable within the normal range of vision of any public right of way or glare that creates a safety hazard;

   c. Any light that resembles an authorized traffic sign, signal or device, or that interferes with, misleads or confuses vehicular traffic as determined by the Zoning Director; and

   d. Beacon or search lights except for temporary grand openings or special events, as required by state or federal law.

5. **Certification**. For all developments that include free-standing luminaires exceeding sixty (60) feet in height, written certification of compliance with this section, bearing the seal of an engineer registered to practice in Florida, shall be required prior to the issuance of a building permit.

6. **Measurement**. Illumination levels shall be measured in footcandles with a direct-reading, portable light meter. The light meter shall be placed not more than six (6) inches above ground level at the property line of the subject parcel. Measurements shall be made after dark with the lights in question on, then with the same lights off. The difference between the two (2) readings shall be compared to the maximum permitted illumination in order to determine compliance with this section.

7. **Effect on previous approvals**. Exterior lights installed prior to February 1, 1990, shall not be considered nonconforming.

C. **Major intersection standards.** As required by the Comprehensive Plan and as specified elsewhere in this Code, certain specific uses shall be located at major intersections or internal to a planned development district that is located at a major intersection. For the purpose of this section, to be considered a major intersection each roadway at the intersection shall meet at least one (1) of the following standards:

1. **Four lanes.** The roadway currently exists at four (4) lanes or more, link to link, and is shown on the Thoroughfare Right-of-Way Protection Map. Dedication of right-of-way or construction of additional lanes solely in front of a property shall not satisfy this standard;

2. **Five year road plan.** The roadway appears in the Five Year Road Plan to be constructed as a major arterial of at least four (4) lanes;

3. **Traffic volume.** The average traffic volume on the roadway is greater than ten thousand (10,000) trips per day as shown on the Metropolitan Planning Organization (MPO) Traffic Volume Map;

4. **Right-of-way.** The roadway is shown on the Thoroughfare Plan as one hundred twenty (120) foot right-of-way or greater;

5. **Upgrade agreement.** The applicant agrees to improve the roadway system to meet the standards in this section, as a condition of approval.

SECTION 7.9 TRAFFIC PERFORMANCE STANDARDS

SECTION 7.9.(I) A - INTENT AND AUTHORITY.

INTENT. The Board of County Commissioners finds that safe, convenient, and orderly flow of vehicular traffic is necessary for the health, safety, welfare, and convenience of the public. It is the intent of this Section to ensure that roadways are in place and adequate to provide a LEVEL OF SERVICE that will provide safe, convenient, and orderly traffic flow.

It is the intent of this Section to implement the goals, objectives, policies, and standards of the 1989 Palm Beach County Comprehensive Plan by amending and readopting the Countywide Traffic Performance Standards Ordinance No. 90-40.

The Board of County Commissioners finds that the safe, convenient, and orderly flow of traffic will be achieved by the standards set forth herein.

Nothing in this Section shall preclude the Board of County Commissioners or other authority with the responsibility of issuing DEVELOPMENT ORDERS from considering traffic, roadway, or PROJECT conditions not specifically required by this Section or which are peculiar to the location, size, configuration, use, or relationship to the area of the PROPOSED PROJECT or the PROPOSED PROJECT itself; and to impose conditions necessary to serve the public interest.

AUTHORITY. The Board of County Commissioners has the authority to adopt this Section pursuant to Article VII, Section 1(g) and to Article VIII, Sec. 1, Fla. Const., the Palm Beach County Charter, Sec. 125.01 et. seq., Fla. Stat., and Sections 16.161 and 16.202 et. seq., Fla. Stat., and Florida Administrative Code Rule 9-J5.

SECTION 7.9.(I) B - DEFINITIONS.

Subsection 1. Other Definitions.

A. For purposes of this Section, except as specifically provided herein or unless the context clearly indicates otherwise, the terms defined in the Unified Land Development Code of Palm Beach County, Florida, and the Plan shall have the meaning therein. In the event of a conflict between the Unified Land Development Code and the Plan, the Plan shall prevail. The capitalization of defined terms herein is for the reader's convenience only. Failure to capitalize shall not be construed as an intent not to use the term in its defined meaning.

Subsection 2. Terms Herein.

B. The following terms shall have the meanings set forth below, unless the context clearly indicates otherwise.

1985 MANUAL - the Highway Capacity Manual, 1985, as published by the Transportation Research Board.

ADOPTED LEVEL OF SERVICE - Generally Level of Service D; however, it may be another Level of Service set by the Plan or pursuant to Policies of the Traffic Circulation Element. It need not be a whole letter range, it may be a portion of a letter range. (See; eg., Level of Service D, Level of Service E)

ADOPTED PEAK HOUR LEVEL OF SERVICE - (Alternate Test 1) - Except as otherwise specifically provided Level of Service D using the FDOT MANUAL on a directional Peak Hour, Peak Season basis. In specific circumstances, such as Geographic Areas of Exceptions, other plan amendments, or Constrained Facilities, it may be a lower level of service as set by an Ordinance amending the Plan.

AGREEMENT - a Development Agreement, public facilities agreement, or other binding agreement entered into between the applicant and Palm Beach County or other service provider for the purpose of assuring compliance with the adopted level of service standards. The form of the Agreement may include, but not be limited to a Development Agreement pursuant to Section 16.220, Florida Statutes.

APPLICANT - Person seeking a SITE SPECIFIC DEVELOPMENT ORDER. In the unincorporated area, it consists of those Development Orders for which a Concurrency Certificate or Concurrency Exemption Determination is required.

ASSURED CONSTRUCTION - Road Construction Improvements scheduled to be made to the Major Thoroughfare system by one or more of the following means:

(A) Inclusion in the adopted Five-Year County Road Program for commencement of construction; provided any anticipated non-public funds are secured by Performance Security;

(B) Inclusion in the adopted Five-Year State Department of Transportation Work Program for commencement of construction;

(C) Major Intersection or LINK improvement for which a contract for construction which is secured by PERFORMANCE SECURITY has been executed and which, by its terms, requires that construction be completed within six (6) years;

(D) Major Intersection or LINK improvement which will be constructed pursuant to an AGREEMENT; and which, by its terms, requires that construction be completed within six (6) years;

(E) Major Intersection or LINK improvements which is required to be constructed pursuant to a condition of a DEVELOPMENT ORDER which by its terms requires that it be completed within six (6) years and which has been secured by PERFORMANCE SECURITY;

(F) Specific inclusion in the capital improvements element of a municipal comprehensive plan for commencement of construction within five (5) years provided: (1) the improvements are financially feasible, based on currently available public revenue sources adequate to complete the improvement; and (2) a comprehensive plan amendment would be required to eliminate, defer, or delay construction; or

(G) For purposes of a Concurrency Certificate for a SITE SPECIFIC DEVELOPMENT ORDER only, a Major Intersection or LINK that the APPLICANT agrees to construct and guarantee through a condition of approval, or AGREEMENT, said construction to be completed prior to issuance of the certificate(s) of occupancy which are phased to the improvement(s) and to be secured by PERFORMANCE SECURITY within six (6) months of issuance of the SITE SPECIFIC DEVELOPMENT ORDER. No further DEVELOPMENT ORDERS for the PROJECT shall be issued if PERFORMANCE SECURITY is not timely posted.

AVERAGE ANNUAL DAILY TRAFFIC - The average of two twenty-four (24) hour weekday traffic counts taken at one location, with one count being taken in the PEAK SEASON and the other in the OFF-PEAK SEASON. The Traffic Volume Map of the Metropolitan Planning Organization (MPO) shall normally be used to determine existing AADT for the West Palm Beach Urban Study Area. However, in all cases, where newer data are available from the Florida Department of Transportation or Palm Beach County, such newer data shall be used. Any person may provide a traffic count or counts which may be used, subject to the prior approval of the COUNTY ENGINEER for count location and adjustment factors based upon accepted traffic engineering principles, instead of the counts used in creating the Traffic Volume Map(s) or where such counts are not available. The AVERAGE ANNUAL DAILY TRAFFIC established by the counts of Palm Beach County shall not include Friday counts after eight o'clock AM. (See Section 7.9.(I)E, §2)(B)(5); "Traffic Impact Studies, Traffic Impact Study, Methodology, Existing Traffic."

AVERAGE PEAK HOUR TRAFFIC - The average of two peak hour weekday traffic counts taken at one location during the afternoon peak time periods, with one count being taken in the PEAK SEASON and the other in the OFF-PEAK SEASON. When such peak hour information is not available, AVERAGE PEAK HOUR TRAFFIC shall be determined by factoring the AVERAGE ANNUAL DAILY TRAFFIC by a "K" factor of 9.6%. Any person may provide a traffic count or counts which may be used, subject to the prior approval of the COUNTY ENGINEER for count location and adjustment factors based upon accepted traffic engineering principles, instead of the counts used in creating the Traffic Volumes Map(s) or where such counts are not available. The AVERAGE PEAK HOUR TRAFFIC established by the counts of Palm Beach County shall not include Friday counts after eight o'clock AM.

BACKGROUND PEAK HOUR TRAFFIC - The projected traffic generation from previously approved but incomplete PROJECTS, and other sources of traffic growth, as described in Section 7.9.(I) E, Subsection 2(B)(8); "Traffic Impact Studies, Traffic Impact Study, Methodology, Background Traffic" which occurs during the Peak Season, Peak Hours to be studied.

BACKGROUND TRAFFIC - The projected traffic generation from previously approved but incomplete PROJECTS, and other sources of traffic growth, as described in Section 7.9.(I) E, Subsection 2(B)(8); "Traffic Impact Studies, Traffic Impact Study, Methodology, Background Traffic".

BUILDING PERMIT - A DEVELOPMENT ORDER under §16.164, Florida Statutes issued under the Standard Building Code by the Building Division of Planning, Zoning and Building in the unincorporated area or similar department in a municipality authorizing the construction of a structure.

BUILDOUT PERIOD - The anticipated time between the issuance of the SPECIFIED DEVELOPMENT ORDER and completion of a PROPOSED PROJECT as approved by the COUNTY ENGINEER in accordance with the standards set forth in Section 7.9.(I) E, §2(B)(4); "Traffic Impact Studies, Traffic Impact Study, Methodology, Projected Buildout Period"; of this Section. Completion of a PROJECT shall mean the issuance of the final certificates of occupancy for buildings in a PROJECT. In the case of a commercial PROJECT, final certification of occupancy for interior tenant improvements for eighty percent (80%) of the gross leasable area shall be the completion of the PROPOSED PROJECT for purposes of this Section.

COMPLETE APPLICATION - An application filed with the Local Government which satisfied all application requirements of state law; and the relevant land development regulations, the general rules and policies adopted, and the customary general practices of the Local Government.

CONCURRENCY CERTIFICATE - in the unincorporated area, a Certificate of Concurrency Reservation, Adequate Public Facilities Determination, or Conditional Certificate of Concurrency Reservation, as defined in Section 7.9.(I) A; or similar confirmation in a Municipality.

CONCURRENCY EXEMPTION DETERMINATION - a determination that the property in the Unincorporated Area is exempt from the concurrency requirements of the Plan pursuant to the Concurrency Exemption Ordinance, Ordinance No. 89-5, as amended;

CONSTRAINED FACILITY - a Link which is widened (or assumed to be widened under Test 2) to its adopted width as determined by the Board of County Commissioners (BCC) as part of the Thoroughfare Right of Way Protection Map.

COUNTY ADMINISTRATOR - The Palm Beach County Administrator or designee.

COUNTY ENGINEER - The Palm Beach COUNTY ENGINEER or designee.

CRALLS - Constrained roadway at a lower Level of Service - a Major Thoroughfare on which a lower Level of Service is set pursuant to Section 7.9.(I) L, herein.

CRITICAL VOLUMES - The sum of all movements in a intersection which conflict with one or more other movements as established pursuant to the Transportation Research Board, Special Report 209, Highway Capacity Manual (1985), "Capacity Analysis", pages 9-21 and 9-22. (See Level of Service D and E definitions)

DETAILED ANALYSIS - An analysis of the signalized Major Intersections at each end of all Links on which Peak Hour Total Traffic does not exceed the Adopted Peak Hour Level of Service during the Buildout Period of the Proposed Project using the Critical Volumes methodology. If the Major Intersection(s) on the end of the Link is(are) not signalized, the County Engineer may require the Detailed Analysis include an alternate signalized intersection within the Link based upon generally accepted traffic engineering principles.

DEVELOPMENT - as defined in §80.04, Florida Statutes, except that it shall not include the following items listed therein the: (1) demolition of a structure except as an adjunct of construction; (2) clearing of land except as an adjunct of construction; and (3) deposit of refuse, solid or liquid waste, or fill on a Lot unless the Site Specific Development Order is specifically for such as the end use and not as an adjunct to the end use.

DEVELOPMENT ORDER - As defined in §163.164, Florida Statutes.

DIRECTLY ACCESSED - The paved LINK(s) that serve as the PROJECT'S immediate and direct access or means of ingress and egress. Each access point of a PROJECT shall be considered to have access to at least one LINK provided that the access points of a PROJECT may be considered to share a common LINK. If a given access point is not immediately connected to a DIRECTLY ASSESSED LINK, the first LINK or LINKS connected shall be LINKS(S) for purposes of this Section. If a PROJECT access point is connected to more than one LINK, PROJECT TRIPS shall be assigned to the LINKS, and LINKS shall be determined to be directly accessed, in accordance with accepted traffic engineering principles.

EXECUTIVE DIRECTOR - The EXECUTIVE DIRECTOR of the Palm Beach County Planning, Zoning and Building Department, or designee.

EXISTING TRAFFIC - Average annual daily traffic counted.

EXISTING PEAK HOUR TRAFFIC - Directional traffic counted during the Peak Hours, Peak Season.

FIRST DEVELOPMENT ORDER - SITE SPECIFIC DEVELOPMENT ORDER.

FDOT MANUAL - Florida's Level of Service Standards and Guidelines Manual adopted January 1, 1989, for Planning; Appendix H, Group A for two-way arterials, Group D for one way arterials, Group 1 for expressways; and for eight (8) lane divided Links three thousand seven hundred eighty (3,780) for LOS D and three thousand nine hundred eighty (3,980) for LOS E.

GAE - Geographic Area of Exception - a geographic exception pursuant to Section 7.9.(I) N of this Section.

GOP'S - The goals, objectives, and policies of a local government's comprehensive plan.

GROSS TRIPS - Project Trips plus internal trips.

HISTORICAL TRAFFIC GROWTH TABLE - A table prepared by the COUNTY ENGINEER showing the preceding three (3) year's increase or decrease in AVERAGE ANNUAL DAILY TRAFFIC on various LINKS, based upon traffic counts and which provide the information to be used in projecting the BACKGROUND TRAFFIC during the BUILDOUT PERIOD of the PROPOSED PROJECT.

INCORPORATED AREA - those areas of Palm Beach County that are incorporated in a Municipality pursuant to Florida law.

INTERNAL TRIPS - Trips from a Proposed Project that do not exit the Project or enter the Major Thoroughfare system.

LEVEL OF SERVICE - The measure of the functional and operational characteristics of a roadway based upon traffic volume in relation to road capacity.

LEVEL OF SERVICE D - As to Average Annual Daily Traffic on a Link, the numbers set forth in Table 1A LOS D column; as to Peak Hour Traffic on a Link, Level of Service D using the FDOT MANUAL; and as to Peak Hour Traffic at an intersection, a CRITICAL VOLUME of one thousand four hundred (1,400).

LEVEL OF SERVICE E - As to Average Annual Daily Traffic on a Link the numbers set forth in Table 1B, LOS E column; Level of Service E using the FDOT MANUAL as to Peak Hour on a Link; and a Critical Volume of one thousand five hundred (1,500) as to Peak Hour Traffic on an Intersection.

LINK - The portion of a Major Thoroughfare between two Major Intersections.

LOCAL GOVERNMENT - Palm Beach County, Florida, and the Municipalities located therein.

LOCAL GOVERNMENT PLAN - the comprehensive plan of the Local Government adopted pursuant to Part II of Chapter 163, Florida Statutes.

MAJOR INTERSECTION - The juncture of two or more MAJOR THOROUGHFARES.

MAJOR PROJECT - Any PROJECT, including those within municipalities, which is:

(A) A Development of Regional Impact; or

(B) A PROJECT which generates more than seven thousand (7,000) Net Trips; or

(C) Any PROJECT of any type or size which is contractually or by condition of approval bound to financing or constructing any portion of a Major Thoroughfare which is not site related;

MAJOR PROJECT TABLE - A table or tables (or map) prepared by the County Engineer indicating the location of all MAJOR PROJECTS in Palm Beach County.

MAJOR THOROUGHFARES - MAJOR THOROUGHFARES are:

(A) All streets as defined in the Thoroughfare Right-of-Way Protection Map, Maps 5A and 5B of the Plan as it may be amended from time to time;

(B) All roadways that function as major thoroughfares as determined by the COUNTY ENGINEER in accordance with accepted Traffic Engineering principles;

(C) All proposed and approved roads that would, if built, function as arterials and major collectors during the BUILDOUT PERIOD of the PROPOSED PROJECT as determined by the COUNTY ENGINEER in accordance with accepted Traffic Engineering principles.

(D) As to Municipal SITE SPECIFIC DEVELOPMENT ORDERS, it shall not include roads which are the responsibility of any Municipality pursuant to functional classification under Chapter 335, Florida Statutes.

MODEL - The Florida Standard Urban Transportation Modeling Structure, using socioeconomic data to assign trips between traffic analysis zones on the Major Thoroughfare system on a daily basis as adjusted/validated in accordance with generally accepted traffic engineering principles to more closely match Palm Beach County conditions. The daily number established by the Model process shall be treated as the Average Annual Daily Traffic for purposes of Test 2.

MODEL RADIUS OF DEVELOPMENT INFLUENCE - the radius of development influence used in the model test as set forth in Table 2B. The distance shall be measured in road miles from the point at which the Proposed Project's traffic enters the first Link, not as a geometric radius.

MODEL TABLE - the table or map of the Major Thoroughfares maintained by the office of the Metropolitan Planning Organization showing Model Traffic.

MODEL TRAFFIC - the anticipated traffic assigned by the Model on the future Major Thoroughfare system resulting from all approved (both built and unbuilt) Projects, expressed in terms of Average Annual Daily Traffic, as adjusted in accordance with generally accepted traffic engineering principles to more closely match Palm Beach County conditions.

MODEL PLAN - the 2010 Interim Transportation System Plan, as modified by Table 3 of the Traffic Circulation Element of the Plan.

MUNICIPAL ENGINEER - A Professional Engineer practicing traffic engineering employed or retained by the Municipality.

MUNICIPAL OFFICIAL - The public official responsible for coordinating the application of this Section in the Municipality, it may be the Municipal Engineer.

NET PEAK HOUR TRIPS - Net trips generated during the Peak Hours.

NET TRIPS - Project trips minus Pass-by Trips and the Previous-Approval Traffic or traffic from the Existing Use established in accordance with Section 7.9.(I) C (2).

OFF-PEAK SEASON - The time from June 1 through August 1, inclusive.

PASS-BY TRIPS - Trips generated by a PROPOSED PROJECT which are passing trips already on the road LINK on which the PROPOSED PROJECT is located.

PEAK HOURS - as established pursuant to Section 7.9.(I) E (3),

PEAK HOUR TRAFFIC/PEAK HOUR VOLUME - The PEAK SEASON PEAK HOUR directional Link volumes and intersection Critical Volumes.

PEAK SEASON - The time from January 1 through March 31, inclusive.

PERFORMANCE SECURITY - Sufficient funds over which the County has control irrevocably committed by written instrument to secure complete performance of a contract or condition of a DEVELOPMENT ORDER, a ROAD AGREEMENT or other AGREEMENT in the form set forth by County policy or (as approved by the County Attorney) of a:

(A) Letter of Credit;
(B) Escrow Agreement;
(C) Surety Bond;
(D) Cash Bond; or
(E) Any other method of comparable security as (A)-(D) approved by the County Attorney.

PLAN - the 1989 Comprehensive Plan of Palm Beach County, Florida, as amended.

PREVIOUS APPROVAL, PREVIOUSLY ISSUED DEVELOPMENT ORDER, PREVIOUSLY APPROVED DEVELOPMENT ORDER - a Site Specific DEVELOPMENT ORDER which:

(a) in the unincorporated area, received a Concurrency Exemption Determination based on a Development Order for which completed application was made prior to or on May 21, 1987. It does not include an amendment or amendments to a Previous Approval applied for after May 21, 1987; and

(b) in the incorporated area is a Valid SITE SPECIFIC DEVELOPMENT ORDER formally approved by a municipality: (1) for which a complete application was made to, and accepted by, a Municipality, prior to February 1, 1990; or (2) in the case of a Development of Regional Impact, a Development of Regional Impact which received a report and recommendation by the Treasure Coast Regional Planning Council prior to February 1, 1990, all pursuant to formally established procedures pursuant to the Municipality's land development regulations. It does not include applications for Site Specific Development Orders on a lot subject to an Interlocal Agreement entered by the municipality and the County, after May 21, 1987, as a result of an annexation where the agreement requires compliance with traffic performance standards. A determination of a Previous Approval in Incorporated Areas shall be in accordance with Section 7.9.(I) C Subsection 5. It does not include an amendment or amendments to a Previous Approval applied for on or after February 1, 1990.

In both the Unincorporated Area and Incorporated Area for Projects approved after the dates above, it shall include a Project which has been completely built for more than five (5) years. Completely built shall mean certificates of occupancy have been issued for all residential units set forth on the master plan or site plan and the total non-residential square footage is constructed as set forth on the master plan or site plan.

PREVIOUS-APPROVAL TRAFFIC - Project Traffic resulting from units or square footage of a Previous Approval established pursuant to Section 7.9.(I) C Subsection 2 of this Section.

TRAFFIC - The anticipated traffic generation of the particular land use based upon generally accepted traffic engineering principles. It is generally based on the Institute of Transportation Engineers Manual, 4th Edition, although, where such ITE rates are not available or accurate for Palm Beach County conditions, it may be established by actual counts of three (3) land uses substantially similar in all material respects to the land use under consideration. It is not based on the actual count of the traffic from the Project under consideration, except the County Engineer shall allow such counts to be used as one of the three (3) counts unless the land use under consideration is not representative of that land use generally by reason of low or high occupancy rate, unusually unsuccessful or successful businesses, an unusual tenant as to trip generation, or the like. Project Traffic, Peak Hour Project Traffic, Net Trips, Net Peak Hour Trips, existing use traffic, Pass-by Trips, and distribution of traffic on the Major Thoroughfare system shall be on a basis.

PRO FORMA TRAFFIC-The anticipated traffic generation of the particular land use which shall be calculated as defined in PROJECT TRAFFIC/PROJECT TRIPS. Where the published rates are not appropriate for the proposed project generating traffic, it may be established by actual counts of three (3) land uses substantially similar in all material respects to the land use under consideration as approved by the County Engineer. It is not based on the actual count of the traffic from the Project under consideration, except the County Engineer shall allow such counts to be used as one of the three (3) counts unless the land use under consideration is not representative of that land use generally by reason of low or high occupancy rate, unusually unsuccessful or successful businesses, an unusual tenant as to trip generation, or the like. Project Traffic, Peak Hour Project Traffic, Net Trips, Net Peak Hour Trips, existing use traffic, Pass-by Trips, and distribution of traffic on the Major Thoroughfare system shall be on a PRO FORMA BASIS.

PROJECT - A land use or group of land uses, or land development activity or activities, or amendment thereto, which require the issuance of a DEVELOPMENT ORDER(s).

(A) For purposes of this Section, the following criteria shall be used to establish whether a particular land use or group of land uses, or land development activity or activities constitutes a single PROJECT subject to the standards of this Section:

(1) Whether the subject property is contiguous to another parcel or parcels owned by the same person. Parcels separated by a right-of-way for an expressway, or a public canal easement or canal right-of-way more than one hundred forty feet (140') wide, shall not be considered contiguous unless a single application for a SITE SPECIFIC DEVELOPMENT ORDER covering such parcels is submitted by an APPLICANT.

(2) Whether the contiguous parcels are subject to a unified plan of development in one or more of the following ways:

(a) A unified plan of development shall be deemed to exist where the property proposed for development is or will be subject to a permit which also applies to contiguous parcels; such as, but not exclusive to, a surface water management permit from the South Florida Water Management District. If the permit covers some but not all contiguous parcels, those contiguous parcels covered by the permit shall be considered a single PROJECT; or

(b) Shared facilities, such as, but not exclusive to, driveways, parking lots, drainage, recreational facilities, open space, or cable television shall indicate a single PROJECT to the extent those properties share facilities; or

(c) Condominium documents or other property owner's association documents covering the contiguous parcels or portion thereof, shall indicate a single PROJECT; or

(d) A common architectural theme for various buildings shall indicate a unified plan of development.

(B) Affiliated corporations, partnerships, or other business entities shall be deemed to be the same person. Affiliation shall exist where the same principals own a majority of the interest in the subject business entities.

(C) Applicants shall submit documentation evidencing ownership of other property within five hundred feet (500'). This documentation shall be in a form approved by the County.

(D) Nothing herein shall prevent the development of a portion of a parcel owned by one person where no unified plan of development for the remainder of the parcel, or portion thereof, is evidenced.

PROJECT TO PROVIDE AFFORDABLE HOUSING - a Project eligible for the special applicability in Section 7.9.(I) J, Affordable Housing, pursuant to either:

(1) Board of County Commissioner's determination, upon the recommendation of the Commission on Affordable Housing, both based upon the criteria developed by the Commission on Affordable Housing and adopted by ordinance of the Board of County Commissioners; or (2) Section 7.9.(I) J, Affordable Housing, Subsection 2, Applicability, of this Section.

PROJECT TRAFFIC/PROJECT TRIPS - The number of trips generated by the PROPOSED PROJECT (this includes reductions for internal trips). In the event no specific use, size, or density is proposed, the maximum Trips possible under the SITE SPECIFIC DEVELOPMENT ORDER shall be Project Traffic. Project traffic shall be generated using the "Official Daily Trip Generation Rate" Table 10.8-1 of Article 10 Impact Fees. If the appropriate ratae is not provided in this table, then latest edition of Trip Generation publilshed by the Institute of Transportation Engineers shall be used to determine the trip generation rate.

PROPOSED PROJECT - A PROJECT for which an APPLICANT seeks the issuance of a DEVELOPMENT ORDER(s).

QUASI-PUBLIC - A land use or group of land uses open for general public use, such as stadiums, amphitheaters, civic centers, and colleges. It does not include shopping centers or other retail uses, and hotels.

RADIUS OF DEVELOPMENT INFLUENCE - The area surrounding a PROPOSED PROJECT as set forth in Table 2A herein. The distance shall be measured in road miles from the point at which the PROPOSED PROJECT's traffic enters the first LINK, or LINKS connected, not as a geometric radius.

ROAD AGREEMENT - An agreement of which the Board of County Commissioners is a party that assures construction of a major intersection(s) or LINK(s). It may, among other things, be necessary to ensure compliance with this Section and may involve commitments of, and restrictions on, the subject property. All requirements of the agreement not the responsibility of a governmental entity must be secured by PERFORMANCE SECURITY and any requirement of a non-governmental entity not so secured shall not be considered part of the agreement for purposes of determining whether the work qualifies as ASSURED CONSTRUCTION. It includes, but is not limited to, Development Agreements as defined in Article 12 of the Unified Land Development Code.

SITE SPECIFIC DEVELOPMENT ORDER - a Development Order issued by a Local Government which establishes the density or intensity, or maximum density or intensity, or use, group of uses, or permitted uses and which approves a specific plan of Development on a lot or lots pursuant to an application by or on behalf of an Owner or contract purchaser, including applications initiated by a Local Government. It may apply to a lot or lots under single ownership or a group of lots under separate ownership. It shall not include general rezoning/district boundary changes initiated by the Local Government which do not involve a particular development concept, except "downzonings" under Section 7.9.(I) D of the Unified Land Development Code. It includes those Development Orders referenced in policies 2-g and 2-h of the Plan in the Capital Improvements Element, including amendments thereto. It shall apply to all parcels or lots in their entirety taken together of any SUBDIVISION. It includes site specific rezonings, special exceptions, conditional uses, special permits, master plan approvals, site plan approvals, plat approvals, and building permits. It may or may not authorize the actual commencement of development. Two (2) or more Development Orders which individually do not constitute a SITE SPECIFIC DEVELOPMENT ORDER shall be considered a SITE SPECIFIC DEVELOPMENT ORDER if when taken together they meet the definition of SITE SPECIFIC DEVELOPMENT ORDER.

STANDARDS OF THIS SECTION - The requirements that Site Specific Development Orders satisfy the Levels of Service provisions of this Section.

SUBDIVISION - As defined in Article 8 of the Unified Land Development Code of Palm Beach County, Florida as to the unincorporated area, and as defined in the Municipal Land Development Regulations in the Municipality.

TABLE 3 - Table 1 of the Traffic Circulation Element of the Plan, "Projected Network Deficiencies - 1988 Roadway Links Below Level of Service," and, as clearly demonstrated by current traffic counts as determined by the County Engineer, those Major Thoroughfares that would have been added to the "Projected Network Deficiencies - 1988 Roadway Links Below Level of Service" had then-current traffic counts been available. It shall also include those Links that were not included in the "Projected Network Deficiencies - 1988 Roadway Links Below Level of Service" through a scrivener's error.

TABLE 5 - "Projected Network Deficiencies - Model Plan Roadway Links Below Generally Adopted Level of Service," as updated periodically by the County Engineer.

TABLE 6 - The changes made to the 2010 Interim Transportation System Plan to produce the Model Plan established pursuant to, Section 7.9.(I) F,(3).

THOROUGHFARE RIGHT OF WAY PROTECTION MAP or PLAN -as described in the Traffic Circulation Element of the Plan, III; Existing Conditions; D; Thoroughfare Right of Way Protection Map.

THROUGH-INTERSECTION CONTINUITY - At least one (1) left turn lane at the intersection and the same number of through lanes as on the Link for at least 3120' beyond the Major Intersection, including transition in accordance with Florida Department of Transportation Standards.

TOTAL PEAK HOUR TRAFFIC - the sum of:

(1) Existing Peak Hour Traffic,
(2) NET PEAK HOUR TRIPS,
(3) BACKGROUND PEAK HOUR TRAFFIC

TOTAL MODEL TRAFFIC - Model Traffic, as established by the most recent run of the Model including the most recent data and calibration, as adjusted/validated in accordance with generally accepted traffic engineering principles to more closely match Palm Beach County conditions.

TOTAL TRAFFIC - the sum of:

(1) EXISTING TRAFFIC
(2) NET TRIPS
(3) BACKGROUND TRAFFIC

TRAFFIC IMPACT STUDY - A traffic study of LINKS and intersections within the RADIUS OF DEVELOPMENT INFLUENCE and Model Radius of Development Influence of a proposed PROJECT; and including the information, and prepared in accordance with the requirements, set forth in Section 7.9.(I) E. For the Traffic Circulation Element of the Plan, it is the "Level of Service Impact Statement" referred to in the Capital Improvement Element of the Plan.

TRAFFIC PERFORMANCE STANDARDS APPEALS BOARD - The administrative appeals board with the authority and responsibility to hear appeals from the decision of the County Engineer or Municipal Engineer as to traffic engineering issues.

TRAFFIC VOLUME MAP - The map of the Major Thoroughfares produced and maintained jointly by the office of the Metropolitan Planning Organization and County Engineer showing Average Annual Daily Traffic.

TRIP GENERATION - means the attraction or production of trips caused by a given type of land development. Teh generation rataes shall be as presented in Table 10.8-1. If the appropriate rate is no;t provided in this table, then the latest edition of Trip Generation published by the Institute of Transportation Engineers shall be used to determine the trip genration rate.

VALID - A SITE SPECIFIC DEVELOPMENT ORDER which: was issued by a Local Government: (1) in accordance with proper procedure and in compliance with state law, and the land development regulations and codes, administrative rules and procedures, and general policies of Local Governments, and the requirements of all other agencies; (2) not by mistake; and (3) which has not expired, lapsed, or been abandoned, revoked, or canceled by operation of law, or by the Local Government or pursuant to the Local Government land development regulations or codes, rules, or policies.

VOLUME-TO-CAPACITY (V/C) RATIO - the ratio of the volume of traffic on a Major Thoroughfare Link to the capacity of that Link as set forth in Table One.

SECTION 7.9.(I) C - APPLICABILITY.

Subsection 1. Generally

A. Unless otherwise provided herein, this Section shall apply to all SITE-SPECIFIC DEVELOPMENT ORDERS or any other official action of a Local Government having the effect of permitting the Development of land.

B. Applicability to Incorporated Areas. The Palm Beach County Charter provides authorization to the County Commission to adopt this Section for roads which are "not the responsibility of any municipality." The responsibility of roads between various jurisdictions results from functional classification under Chapter 5, Florida Statutes. This system of functional classification does not match the major thoroughfare system identified in the Plan as to every Link. The major thoroughfare system identified in the Plan includes some roads which are the responsibility of a Municipality. Therefore, the Charter precludes the applicability of this Section to roads that, while being on the Major Thoroughfare system, are the responsibility of a Municipality. Accordingly, in the case of setting the level of service this Section shall not apply so as to restrict the issuance by Municipalities of Development Orders adding traffic to roads which are the responsibility of a Municipality.

Subsection 2. Previously-approved Development Orders

(A) Amendments to Site Specific Development Order - Any application for a SITE SPECIFIC DEVELOPMENT ORDER amending a Site Specific Development Order shall be subject to this Section. The proposed Project Traffic which exceeds Previous-Approval Traffic on the Major Thoroughfare system (including increases resulting from a redistribution of Project Traffic) shall meet standards of this Section. Previous-Approval Traffic shall be established as follows:

(1) Only Project Traffic from units or square footage which received a SITE SPECIFIC DEVELOPMENT ORDER for which complete application was made on or before May 21, 1987 in the unincorporated area shall be Previous-Approval Traffic. Project Traffic from units or square footage for which complete application was made after May 21, 1987 shall not be Previous-Approval Traffic. Traffic associated with units or square footage removed through master or site plan amendment shall be deducted from the originally approved project traffic in establishing Previous Approval Traffic.

(2) Only Project Traffic from units or square footage which received a SITE SPECIFIC DEVELOPMENT ORDER in the incorporated area for which Complete Application was made prior to February 1, 1990 and which has been determined by the Municipality to be a Previous Approval in accordance with Subsection 5 of this Section 7.9.(I) C shall be Previous-Approval Traffic. Units or square footage lost by applicability of the Municipal Land Development Regulations, general rules and policies adopted, and the customary general practices of the Municipality shall be deducted from the originally approved project traffic in establishing Previous-Approval Traffic.

(3) For purposes of this determination, the generation rates and capture rates of the Previous Approval shall be updated to current traffic generation and Pass-by rates, if applicable, and shall be used to calculate Previous-Approval Traffic. PROJECT TRIPS shall be studied for Test 1 and Test 2.

(4) Previous-Approval Traffic shall not include any Project Traffic from a Site Specific Development Order for which complete application was made after May 21, 1987 in the Unincorporated Area, or February 1, 1990 in the Incorporated Area, unless the Project has been completely built (See definition of Previous Approval) for more than five (5) years, in which case all Project Traffic shall be Previous Approval Traffic.

(B) Existing Use - Any application for a SITE SPECIFIC DEVELOPMENT ORDER on property on which there is an existing use shall be subject to this Section's standards to the extent the traffic generation projected for the SITE SPECIFIC DEVELOPMENT ORDER exceeds the traffic generation of the existing use, or increases traffic through a redistribution of traffic from the existing use (as determined using generation and Pass-by rates in accordance with generally accepted traffic engineering principles) on the Major Thoroughfare system. For purposes of this paragraph B, the use of a structure or land that has been discontinued or abandoned for more than five (5) years shall not be considered an existing use.

(C) Amendments to Development Orders - The proposed Project Traffic shall be compared to Previous-Approval Traffic on both an average daily basis and a Peak Hour basis. Increases in Net Peak Hour Trips must meet average peak hour part of Test 1. Increases in Net Trips must meet the Adopted Level of Service without benefit of Alternate Test 1. Increased Net Trips must meet Test 2.

(D) Amendments to Entitlement. Any amendment to the Entitlement phase of the Project shall include all Project Traffic, provided there shall be no double counting of Project Traffic. [See Section 7.9.(I) H]

(E) Amendments Requiring Performance Security - Any SITE SPECIFIC DEVELOPMENT ORDER amending a Previously-Approved DEVELOPMENT ORDER which required road construction, right-of-way acquisition, design, contribution of money, or other improvements to a LINK or MAJOR INTERSECTION shall require PERFORMANCE SECURITY to secure the contribution or improvements, if the road construction, right-of-way acquisition, design, contribution of money, or other improvements are still required after the amendment. Performance Security shall be submitted no later than six (6) months following issuance of the amending Site Specific Development Order. No further DEVELOPMENT ORDERS for the PROJECT shall be issued if PERFORMANCE SECURITY is not timely posted.

(F) Redistribution of Traffic. Any amendment to a Development Order which results in traffic being redistributed on the Major Thoroughfares shall be subject to the standards of this Section to the extent of any increase of Project Traffic over Previous Approval Traffic on the affected LINKS or Major intersections.

Subsection 3. Non-applicability

(A) Local Government Applications - The standards of this Section shall not apply to Local Government-initiated district boundary changes as part of an area-wide review and district boundary-change program, or any district boundary changes to conform with the Local Government Plan which does not authorize Development.

(B) Development Order Time Limit Criteria - This Section shall not apply to Palm-Beach-County initiated petitions to lower density/intensity under Development Order Time Limit Criteria in Section II of the Unified Land Development Code of Palm Beach County, Florida. Nothing herein shall preclude the review of approvals under Development Order Time Limit Criteria, for consistency with this Section.

(C) Entitlement - The standards of this Section shall not apply to SITE SPECIFIC DEVELOPMENT ORDERS not exceeding entitlement densities/intensities established in the Plan or Section 7.9.(I) H, Entitlement.

(D) Special Events - The standards of this Section shall not apply to SITE SPECIFIC DEVELOPMENT ORDERS issued for special events. For purposes of this Section, a special event is an activity or use which does not exceed three weeks a year, occurs no more frequently than once a year, and is public or quasi-public in nature. It includes auto races; Fourth of July activities; parades; and festivals. It does not include recurring events such as baseball games, football games, concerts, races, and the like held in stadiums, amphitheaters, or other permanent facilities even if such facilities are used for special events. Each special event shall constitute a separate special event for purposes of calculating the number of weeks of the event. If the Plan is amended to provide more stringent provisions as to this exception, the Plan shall control.

(E) Estoppel - Nothing herein shall preclude the Board of County Commissioners from determining upon the advice of the County Attorney that an estoppel exists under Florida law, being a substantial good-faith reasonable reliance on a governmental act or omission such that it will be highly inequitable to apply this Section.

(F) Subsequent or amending Development Orders.

(1) Subsequent Implementing Development Orders. The standards of this Section shall not apply to Site Specific Development Orders which are subsequent implementing Development Orders to Previously-Approved Site Specific Development Orders which were captured by this Section or Ordinance 90-6 (Traffic Performance Standards Municipal Implementation Ordinance), but which are required by Local Government as part of the Development approved under the captured or Previously-Approved Site Specific Development Order. Examples of these subsequent implementing Site Specific Development Orders are subdivision approvals and building permits issued in a planned unit development where the planned unit development is a Previous Approval or met the requirements of this Section (either directly or through the Traffic Performance Standards Municipal Implementation Ordinance).

(2) Amendments to Previously-Captured-Approvals. Amendments to Site Specific Development Orders which were captured by this Section or Ordinance 90-6 (Traffic Performance Standards Municipal Implementation Ordinance) which do not increase the captured Site Specific Development Order's Net Trips or Net Peak Hour Trips on any Link or Major Intersection (including increases resulting from redistribution) shall not be subject to the standards of this Section. For purposes of this determination, the generation rates and capture rates of the captured Site Specific Development Order shall be updated to current generation and capture rates, if applicable, and shall be used to calculate whether there is any increase. If there is an increase, Net Trips shall be subject to the Standards of this Section.

(G) Vested Rights.

Notwithstanding the provisions of this Section to the contrary, the requirements of this Section shall not apply in any manner to impair vested rights established pursuant to Florida law, to the extent that any PROJECT, or portion thereof, is vested as against the requirements of this Section.

(H) The standards of this Section shall not apply to Site Specific Development Orders for the Coastal Residential use as set forth in Section 7.9.(I) L; the small one hundred percent (100%) very low and low income housing project as set forth in Section 7.9.(I) J, Subsection 2, Paragraph (C); and the special events, as set forth in Section 7.9.(I) C, Subsection .

(I) The exceptions to the standards of this Section (Level of Service standards) do not obviate the requirement to report the Site Specific Development Order, or provide the Traffic Impact Study (where required), to the County Engineer.

Subsection 4. Municipal Determination of Previous Approval.

(A) Only Valid First Development Orders which meet the definition of Previous Approval shall be considered Valid Previous Approvals.

(B) The Municipality shall establish procedures for determining what Previous Approvals have been granted. The procedures shall be at the sole discretion of the Municipality. The Municipality shall send its determination as to each Previous Approval to the Traffic Division of the County Engineer within fifteen (15) days of its determination.

(C) The County Engineer shall have ten (10) working days, exclusive of tolled days, from the receipt of the determination of the Municipality to review and determine if additional information is required.

(D) If the County Engineer requests additional information, he shall have thirty (0) days, exclusive of tolled days, from the receipt of the additional information to notify the property owner and Municipality as to, and file, an action for judicial review.

(E) The Municipality's determination shall not be effective, and the period to file an action shall not commence, until either: (1) the County Engineer has not requested additional information within the ten (10) day period or, (2) if additional information is requested, the County Engineer has received all additional information requested.

(F) The documents sent pursuant to paragraphs B and D shall be sent certified mail, return receipt requested, or hand delivered.

(G) The appeal or review shall be to a Court of competent jurisdiction and may be filed by any substantially affected person, including any Local Government.

(H) Limitation on County's Review/Appeal.

(1) The time frames set forth in Paragraphs C and D above as to the County are jurisdictional. Any failure on the part of the County to timely send the notification shall result in the municipality's determination being conclusive and binding.

(2) Clerical errors in long-standing otherwise Valid Site Specific Development Orders on which development commenced prior to February 1, 1990 shall not be grounds for appeal or review.

(3) Any Municipal determination that there is a Previous Approval on a Lot upon which building construction or infrastructure improvements have been made within the last three (3) years which are consistent with the Development Order considered to be the Previous Approval shall not be appealed by the County.

(4) Any Municipal determination that a Valid Site Specific Development Order (as determined by Palm Beach County) issued prior to February 1, 1990, and within three (3) years prior to February 1, 1990, is a Previous Approval and shall not be appealed by the County.

(I) The Municipality shall complete its review and determination of all properties within its jurisdiction as to Previous Approvals by July 1, 1991.

Subsection 5. Municipal Concurrency Management System.

A Municipality may, with the consent of the County, enter into an intergovernmental agreement with the County whereby the Municipality, by a concurrency management ordinance, implements the standards and requirements of this Section at different points in the land development approval process than those set forth in this Section. The agreement and ordinance shall ensure that all Development is subject to the standards and requirements of this Section, and that data is forwarded to the County for capacity management and review consistent with this Section.

SECTION 7.9.(I) D - STANDARD.

Subsection 1. Generally

There is hereby established a Traffic Performance Standard for all MAJOR THOROUGHFARES within Palm Beach County. Except as specifically provided in this Section, no Site Specific DEVELOPMENT ORDER shall be issued for a PROPOSED PROJECT which would violate this standard. This standard consists of two tests. The first test relates to the Buildout Period of the Project and requires that the Project not add Traffic in the Radius of Development Influence which would have Total Traffic exceeding the Adopted Level of Service. The second test relates to the modeling of traffic based upon Model Traffic. It requires that the Project address Traffic on any Link within the Model Radius of Development Influence. It requires that Total Model Traffic not exceed the Adopted Level of Service on any Link.

Subsection 2. Buildout/Model Standard

(A) LINK/Buildout test - Test 1

(1) Except as specifically provided in this Section, no Site Specific Development Order shall be issued which would, during the Buildout Period of the Project, add NET TRIPS at any point on any Major Thoroughfare Link within the Project's Radius of Development Influence if the Total Traffic on that Link would result in an Average Annual Daily traffic volume or Average Peak Hour traffic volume that exceeds the Adopted Level of Service during the Buildout Period of the Project. For purposes of this analysis, Assured Construction shall be considered. The average peak hour standard shall become effective when the necessary policy on the Traffic Circulation Element of the Palm Beach County Comprehensive Plan is adopted.

(2) Notwithstanding subparagraph (1) of this paragraph (A), the LEVEL OF SERVICE D for the LINKS listed on Table which have a volume to capacity ratio of greater than 1.00 therein may be exceeded by up to a total of five percent (5%) of Level of Service D as computed on an AADT basis. These roadway links eligible for the excess five percent (5%) will be presumed to pass the average peak hour test. This five percent (5%) shall be the cumulative Traffic from all Projects or Project amendments approved increasing or redistributing Traffic for which application was made on or after February 1, 1990 based upon the Traffic Impact Studies of such. This excess five percent (5%) shall be allocated on a first-come-first-served application-filed basis; provided no Project may use more than one-fifth (1/5th) of the five percent (5%) available on any LINK. The County Engineer shall maintain a map or table on which the excess five percent (5%) shall be depicted and the amount of such used. The map or table shall be updated no less frequently than quarterly.

(3) Alternate Test One.

For Links on which Test One is not met, an Applicant may elect to evaluate each Link's Peak Hours, Peak Season directional traffic volume, using the FDOT MANUAL. If the number of lanes is different in each direction, the number of lanes serving the direction being analyzed shall be used for purposes of determining the Peak Hour, Peak Season direction capacity. If the Peak Season, Total Peak Hour directional Traffic exceeds the Adopted Peak Hour Level of Service during the Buildout Period of the Project, no Site Specific Development Order shall be issued unless Link improvements are made, including Through-Intersection Continuity such that Test One, or Alternate Test One, is satisfied. If the studied Peak Season, Peak Hour directional Traffic on a Link does not exceed the Adopted Peak Hour Peak Season Level of Service of the Link during the Buildout Period of the Project, the Applicant shall complete a Detailed Analysis. Test 1 shall be satisfied if the Detailed Analysis demonstrates that the Critical Volume for the analyzed signalized intersections, during the Peak Hour in the Peak Season, is less than or equal to the Adopted Level of Service for intersections. The Applicant may make intersection improvements to achieve the Adopted Level of Service Critical Volume, in accordance with Palm Beach County or Florida Department of Transportation Design Standards.

(B) Model test/Test 2

(1) (a) Except as specifically provided in this Section, no Site Specific Development Order shall be issued which would add NET TRIPS to any Link within the Project's Model Radius Development Influence if the Total Model Traffic on that Link would result in an Average Annual Traffic volume, as determined by the Model, that exceeds the Adopted Level of Service. For purposes of this analysis, the construction contemplated in the Model Plan shall be the basis.

(b) For proposed Projects generating more than seven thousand (7,000) Net Trips, except as specifically provided in this Section, no Site Specific Development Orders shall be issued which would add Net Trips to any Link within the Project's Model Radius of Development Influence if the Total Model Traffic (by utilization of the Model to assign Net Trips) on that Link would result in an Average Annual Traffic volume, as determined by the Model, that exceeds the Adopted Level of Service. For purposes of this analysis, the construction contemplated in the Model Plan shall be the basis.

(2) Notwithstanding subparagraph (1) of this paragraph (B), the LEVEL OF SERVICE D FOR THE LINKS listed on Table 5, may be exceeded by up to a total of five percent (5%) of Level of Service D. This five percent (5%) shall be the cumulative Traffic from all Projects or Project amendments approved increasing or redistributing Traffic for which application was made on or after February 1, 1990 based upon the Model run, including the socio-economic data from such Development. This excess five percent (5%) shall be allocated on a first-come-first-served application-filed basis; provided no Project may use more than one-fifth (1/5th) of the five percent (5%) available on the DIRECTLY ACCESSED LINK or three-fifths (3/5ths) of the five percent (5%) available on any other LINK based upon the Project's Traffic Impact Study. Notwithstanding the three percent (3%) limitation as stated at the bottom of Table 2B, net project trips within the maximum Radius of Development Influence shall be accumulated toward the five percent (5%) allocation. The County Engineer shall maintain a map or table on which the excess five percent (5%) shall be depicted and the amount of such used. The map or table shall be updated no less frequently than the Model. Links shall be added to Table 5 as their volume-to-capacity ratio exceeds 1.00 resulting from the Model update, using the Model Plan. At such time, these Links shall be eligible for the additional five percent (5%) under Test 2. Table 5 may be updated by resolution of the County Engineer.

(3) If Test 2 could be technically satisfied by improving the deficient Link(s), the County Engineer may determine that such improvements will not satisfy Test 2 where such improvements do not result in additional capacity sufficient to solve the deficiency on the Major Thoroughfare Network or do not provide continuity based upon generally accepted traffic engineering principles.

(4) The LEVEL OF SERVICE D and E as to Average Annual Daily Traffic for Links is set forth in Table 1A, and 1B, respectively.

TABLE 1A
LEVEL OF SERVICE D

	Average Peak Hour LOS D	ADT LOS D	Test 1 LOS D	Test 2
FACILITY TYPE	STANDARD	STANDARD	STANDARD	
2 lanes undivided	1,310	1,700	15,470	
3 lanes two-way	1,830	14,400	16,260	
2 lanes one-way	1,830	16,900	19,090	
3 lanes one-way	2,770	25,600	28,910	
4 lanes undivided	2,320	24,160	27,290	
4 lanes divided	2,900	30,200	34,110	
5 lanes divided	2,900	30,200	34,110	
6 lanes divided	4,400	46,300	52,290	
8 lanes divided	5,800	60,000	67,760	
4 lanes expressway	6,570	73,800	83,350	
6 lanes expressway	9,850	110,700	125,030	
8 lanes expressway	13,140	147,600	166,700	
10 lanes expressway	16,420	184,500	208,380	

TABLE 1B
LEVEL OF SERVICE E

FACILITY TYPE	Average Peak Hour LOS E STANDARD	Test 1 LOS E STANDARD	Test 2 LOS E STANDARD
2 lanes undivided	1,470	15,400	17,390
3 lanes two-way	1,550	16,100	18,180
2 lanes one-way	1,950	17,600	19,880
3 lanes one-way	2,940	27,200	30,700
4 lanes undivided	2,550	26,560	30,000
4 lanes divided	3,180	33,200	37,500
5 lanes two-way	3,180	33,200	37,500
6 lanes divided	4,820	50,200	56,700
8 lanes divided	6,360	69,000	77,930
4 lanes expressway	7,060	79,300	89,560
6 lanes expressway	10,590	119,000	134,400
8 lanes expressway	14,120	158,700	179,240
10 lanes expressway	17,650	198,400	224,080

(D) Intersection Review

A SITE SPECIFIC DEVELOPMENT ORDER which would, during the BUILDOUT PERIOD of the PROJECT, result in NET TRIPS equal to or more than ten percent (10%) of TOTAL TRAFFIC on an AADT basis on any LINK connecting a MAJOR INTERSECTION within the PROJECT'S RADIUS OF DEVELOPMENT INFLUENCE, shall provide a Detailed Analysis of the Critical Volume in the intersection and may be required as a condition of the Site Specific Development Order, or Road Agreement, to provide intersection improvements.

If Peak season counts are not readily available, the Peak Season count may be established using factors established by the County Engineer based upon the best available data and generally accepted traffic engineering principles.

(E) Tables 2A and 2B represent the maximum Radius of Development Influence (Test 1) and Model Maximum Radius of Development Influence (Test 2) for the specific volume of the PROPOSED PROJECT'S Net Trips. The actual radius of development influence may vary, depending upon the distribution of the Project's Net Trips on the Major Thoroughfare system based upon the configuration of such and location of the project on the Major Thoroughfare system, based upon generally accepted traffic engineering principles, in which case the County Engineer may require a larger Radius of Development Influence.

TABLE 2A
Test 1 - Link/Buildout Test
MAXIMUM RADIUS OF DEVELOPMENT INFLUENCE

Net Trip Generation	Distance
1 - 200	Only address Directly Accessed Link on first accessed major thoroughfare
201 - 500	.5 mi.
501 - 1,000	1 mi.
1,001 - 5,000	2 mi.
5,001 - 10,000	3 mi.
10,001 - 20,000	4 mi.
20,001 - Up	5 mi.

Where a Proposed Project has a Radius of Development Influence greater than one-half (.5) mile, then that Project must address only those Links beyond the one-half (.5) mile radius on which its Net Trips are greater than one percent (1%) of the Level of Service D AADT volume of the Link affected up to the limits set forth in this Table 2A. Provided, in all cases, I-95 shall be addressed only if Net Trips on I-95 are greater than one-percent (1%) of the Level of Service D AADT volume.

TABLE 2B
Test 2 - Model Test
MAXIMUM RADIUS DEVELOPMENT INFLUENCE

Net Trip Generation	Distance
1 - 50	Need not address any link under Test 2
51 - 1000	Only address directly-accessed link on first accessed major thoroughfare.
1001 - 4000	1 Mi.
4001 - 8000	2 Mi.
8001 - 12,000	3 Mi.
12,001 - 20,000	4 Mi.
20,001 - up	5 Mi.

Except for Projects generating fewer than fifty-one (51) trips, all Projects must address at least the Directly Accessed Link. When a Site Specific Development Order has a Radius of Development Influence beyond the Directly Assessed Link, then that Project must address only those links beyond the Directly Accessed Link on which its Net Trips are greater than three percent (3%) of the Level of Service D on an AADT basis of the Link affected up to the limits set forth in this Table 2B.

(F) Phasing - Phasing may be utilized by the APPLICANT to establish compliance with this standard if all of the following conditions are met:

(1) The Proposed Project is able to comply with all the other Concurrency Requirements of the Plan in the unincorporated area.

(2) The proposed phasing results in the PROPOSED PROJECT complying with the standards set forth in paragraphs (A) and (B) of this Subsection 2.

(3) The proposed phasing comports with the extent and timing of the ASSURED CONSTRUCTION.

(4) The COUNTY ENGINEER confirms that construction is in fact ASSURED CONSTRUCTION.

(5) For any ASSURED CONSTRUCTION which is to be completed by the APPLICANT as to the Unincorporated Area, the Applicant must agree in writing prior to the application being accepted that a condition of approval must be imposed or an AGREEMENT executed and sufficient PERFORMANCE SECURITY must be required; and as to the Incorporated Area either an Agreement must be executed by all parties prior to or concurrent with the issuance of the Site Specific Development Order, or the Site Specific Development Order must have as a condition the completion of the Assured Construction and timely posting of Performance Security.

(6) BUILDING PERMITS for that portion of a PROJECT approved with phasing which if standing alone would be the Entitlement phase of the PROJECT may be issued notwithstanding the standards in paragraph (A) and (B) of this Subsection 2.

(7) Conditions of the Development Order are imposed or an Agreement is entered which ensure permits are restricted in accordance with the phasing.

(8) Phasing shall be controlled by the non-issuance of building permits. Phasing may not occur by issuing building permits for any of the phased units or square feet and withholding the certificate of occupancy, inspections, or other items subsequent to the issuance of building permits. A Local Government may control phasing by a means prior to the issuance of building permits.

(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 commencement of construction.

(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 that Assured construction shall be issued, but not sooner than one (1) year following the end of the fiscal year construction was to commence. For purposes of this paragraph, "deleted" shall mean the elimination of the construction project, the material reduction in the scope of construction work or funding thereof (as it affects the construction project), the postponement of the construction project in the first three (3) years of the County's Five-Year Road Program for more than two years beyond the year the construction was originally programmed in the first three (3) years of the County's Five Year Road Program, failure to let a road construction contract, or the removal of or failure to continue funding of the construction project; but shall not include construction delays, design delays, contracting delays, or similar delays.

SECTION 7.9.(I) E - TRAFFIC IMPACT STUDIES.

Subsection 1. Generally

In order to demonstrate that an application for a SITE SPECIFIC DEVELOPMENT ORDER complies with this Section, the APPLICANT shall submit a TRAFFIC IMPACT STUDY, except as set forth in Section 7.9.(I) G, Subsection 1(C).

Subsection 2. Traffic Impact Study

(A) Scope - A TRAFFIC IMPACT STUDY shall be required for any Proposed PROJECT, except as set forth in Section 7.9.(I) G. Subsection 1(C). It shall address the requirements and standards of this Section; shall be presented concisely using maps whenever practicable; and shall state all assumptions and sources of information. The form and level of detail required shall be established by the County Engineer in accordance with accepted traffic engineering principles. A study which addresses only the Standards of this code may be submitted initially for a Certificate of Concurrency, in which case the Applicant shall submit any additional study necessary concurrent with the application for the Site Specific Development Order.

(B) Methodology - The following methods of evaluation, standards, and information shall be addressed unless the APPLICANT can, to the satisfaction of the COUNTY ENGINEER or Municipal Engineer on Project Traffic fewer than 1,001 Gross Trips, affirmatively demonstrate that, because of circumstances peculiar to the PROPOSED PROJECT or Major Thoroughfare system impacted by the Proposed PROJECT other methods or standards provide a more accurate means to evaluate the LINKS, intersections, and traffic impact of the PROPOSED PROJECT:

(1) Level of Service - The Adopted LEVEL OF SERVICE for Test One, or Alternate Test 1, and Test 2, as applicable, for all MAJOR THOROUGHFARES within the applicable RADIUS OF DEVELOPMENT INFLUENCE shall be used.

(2) Traffic Assignment - The TOTAL TRAFFIC shall be computed, and traffic assignments of the NET TRIPS made, for each LINK and MAJOR INTERSECTION within the PROJECT'S RADIUS OF DEVELOPMENT INFLUENCE and Model Radius of Development Influence in conformity with accepted traffic engineering principles for both Test 1, Alternate Test 1, and Test 2. The assignments shall address phasing and cover the BUILDOUT PERIOD of the PROJECT for Test 1.

(3) Radii of Development Influence - The traffic study shall use the RADII OF DEVELOPMENT INFLUENCE for Test 1 and Test 2.

(4) Projected BUILDOUT PERIOD - The projected BUILDOUT PERIOD of the PROJECT shall be set forth in the study and shall be subject to the review and approval of the COUNTY ENGINEER, or Municipal Engineer on Project Traffic of fewer than 1,001 Gross Trips, based on the following criteria.

(a) The size, type and location of the PROPOSED PROJECT.

(b) Customary BUILDOUT PERIODS for PROJECTS of similar size, type, and location.

(c) Any other factors or conditions relevant to the specific PROJECT, including special market conditions and schedules of ASSURED CONSTRUCTION.

(5) Existing Traffic - (AADT) - AVERAGE ANNUAL DAILY TRAFFIC shall be used as defined in this Section. Where current data are not available to establish existing AADT, the APPLICANT shall elect one of the following methods to establish AVERAGE ANNUAL DAILY TRAFFIC:

(a) Counts - The APPLICANT may provide traffic counts if approved by the COUNTY ENGINEER, or Municipal Engineer on Project Traffic fewer than 1,001 Gross Trips, prior to the counts being taken in accordance with accepted traffic engineering principles. Counts shall be made during any continuous twenty-four (24) hour period from six (6) o'clock AM, Monday to eight (8) PM Friday, except legal holidays, unless otherwise authorized or required by the COUNTY ENGINEER, or Municipal Engineer on Project Traffic fewer than 1,001 Gross Trips, in accordance with accepted traffic engineering principles. All data are subject to review and acceptance by the County Engineer or Municipal Engineer on Project Traffic of fewer than 1,001 Gross Trips, based upon accepted traffic engineering principles.

(b) Factors - Where a PEAK SEASON or OFF-PEAK SEASON traffic count is not readily available, the count which is unavailable may be established using factors established by the County Engineer for various areas of the County based on the best available data and generally accepted traffic engineering principles.

(c) For the Model Test, the Project shall be evaluated based upon Total Model Traffic and Model Radius of Development Influence.

(6) Existing traffic - Peak Hour - The average of two peak hour weekday traffic counts taken at one location taken during the afternoon peak time periods with one count being taken in the PEAK SEASON and the other in the OFF-PEAK SEASON. When such peak hour information is not available, AVERAGE PEAK HOUR TRAFFIC shall be determined by factoring the AVERAGE ANNUAL DAILY TRAFFIC by a "K" factor of 9.6%. Any person may provide a traffic count or counts which may be used, subject to the prior approval of the COUNTY ENGINEER for count location and adjustment factors based upon accepted traffic engineering principles, instead of the counts used in creating the Traffic Volumes Map(s) or where such counts are not available. The AVERAGE PEAK HOUR TRAFFIC established by the counts of Palm Beach County shall not include Friday counts after eight o'clock AM.

(7) Traffic Generation - Traffic generated by the PROJECT shall be computed in the following manner:

(a) Trip generation rates presented in Table 10.8-1 of Article 10. Impact fees shall be used to calculate project trips. If the rate equation or tables published in the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation and Informational Report shall be used unless the COUNTY ENGINEER accepts that other standards provide a more accurate means to evaluate the rates of generation or if documentation is supplied by the APPLICANT which affirmatively demonstrates more accurate generation rates based on accepted engineering principles.

(b) Local Conditions - The Palm Beach COUNTY ENGINEER shall publish, and update from time to time, trip generation rates for local conditions and, if applicable, these rates shall be used instead of the ITE rates.

(c) Similar Developments - Actual traffic counts which establish the generation rate at three (3) similar developments located in similar areas as the one proposed may be used if approved by the COUNTY ENGINEER in accordance with accepted traffic engineering principles. These counts shall be made for the weekdays (excluding legal holidays) as set forth in paragraph (5) for each site and averaged.

(8) Pass by Trips - It is acknowledged that some trips generated by a proposed non-residential PROJECT are from Existing Traffic passing the PROPOSED PROJECT and are not newly generated trips. Credit against the trip generation of the PROPOSED PROJECT may be taken for these trips up to the percentage shown in Table 4, or the ITE manual when approved by the County Engineer. The study must detail: (1) all traffic generated from the PROJECT, and (2) the number of PASS-BY TRIPS subtracted from the traffic generated by the PROJECT during the BUILDOUT PERIOD of the PROJECT.

Uses other than those listed below, and any percentage credit proposed to be taken in excess of that shown in Table 4, must be justified based on accepted traffic engineering principles to the satisfaction of the COUNTY ENGINEER as part of the required traffic study, based upon the peculiar characteristics and location of the PROPOSED PROJECT. Factors which should be considered in determining a different Pass-by rate include type and size of land use, location with respect to service population, location with respect to competing uses, location with respect to the surrounding Major Thoroughfare system, and existing and projected traffic volumes. Table 4 may be updated by resolution of the Board of County Commissioners. In no case shall the number of PASS-BY TRIPS exceed twenty-five percent (25%) of Existing Traffic plus Background Traffic on the Link, unless demonstrated otherwise to the satisfaction of the County Engineer based on generally accepted traffic engineering principles.

TABLE 4

PERCENT OF PASS-BY TRIPS

TYPE OF LAND DEVELOPMENT ACTIVITY	PASS-BY TRIP RATE (PERCENTAGE)
Drive In Bank	46%
Day Care Center	10%
Quality Restaurant	15%
High Turnover Sit Down Restaurant	15%
General Commercial Retail *	
10,000 Sq. Ft.	45%
50,000 Sq. Ft.	44%
100,000 Sq. Ft.	4%
200,000 Sq. Ft.	41%
00,000 Sq. Ft.	38%
400,000 Sq. Ft.	36%
500,000 Sq. Ft.	34%
600,000 Sq. Ft.	32%
800,000 Sq. Ft.	27%
1,000,000 Sq. Ft.	23%
1,200,000 Sq. Ft.	18%
1,400,000 Sq. Ft.	14%
1,600,000 Sq. Ft.	9%
Fast Food Restaurant	30%
Gas Station	58%
Convenience Store	45%

* Pass-By Percent Formula (For General Commercial)

Pass-By% = 45.1 - .0225(A)
A = Area in 1,000 gross square feet of leasable area

TABLE 5
PROJECTED NETWORK DEFICIENCIES
MODEL PLAN
ROADWAY LINKS BELOW AADT LEVEL OF SERVICE D

ROADWAY	FROM	TO
10TH AVENUE NO.	Congress Avenue	I-95
45TH STREET	Village Boulevard	I-95
AIA	Ocean Avenue	State Road 80
BELVEDERE ROAD	I-95	Parker Avenue
BROADWAY	59th Street	Port Road
CAMINO REAL	US 1	ICWW
CENTRAL BLVD	Indiantown Road	Church Road
CLINT MOORE RD	Jog Road	Military Trail
FEDERAL HIGHWAY	Mizner Boulevard	Yamato Road
GLADES ROAD	Butts Road	Perimeter Road
MILITARY TRAIL	Belvedere Road	Okeechobee Blvd
OKEECHOBEE BLVD	Folsom Road	Sem.-Pratt Whitney
OKEECHOBEE BLVD	Royal P Bch Blvd	State Road 7
OKEECHOBEE BLVD	Fla's Turnpike	Palm Bch Lakes Blvd
OKEECHOBEE BLVD	Congress Avenue	I-95
OKEECHOBEE BLVD	Australian Avenue	Tamarind Avenue
PALM BCH LAKES BLVD	Okeechobee Blvd	Mall East Entrance
PALMETTO PARK ROAD	Military Trail	SW 12th Street
SEM.-PRATT WHITNEY RD	60th Street	Northlake Blvd
SOUTHERN BLVD	I-95	Parker Avenue
STATE ROAD 7	Okeechobee Blvd	Roebuck Road
SUMMIT BLVD	Florida Mango	Parker Avenue
YAMATO ROAD	I-95	NW 2nd Avenue

(9) Background Traffic

(a) Generally - Existing traffic volumes will likely change during the BUILDOUT PERIOD of the PROPOSED PROJECT. The traffic study must account for this change in traffic based on BACKGROUND TRAFFIC during the BUILDOUT PERIOD of the PROPOSED PROJECT. The projection of BACKGROUND TRAFFIC shall be based upon the information set forth on the HISTORICAL TRAFFIC GROWTH RATE TABLE and the map of MAJOR PROJECTS, and shall be established in accordance with the requirements set forth in this Section and accepted engineering principles. This change in traffic shall be shown as it relates to the proposed phasing.

(b) Historical Growth Tables. Using the HISTORICAL TRAFFIC GROWTH TABLES of the COUNTY ENGINEER, the study shall forecast the change in traffic volumes based on BACKGROUND TRAFFIC within the PROPOSED PROJECT'S RADIUS OF DEVELOPMENT INFLUENCE during the BUILDOUT PERIOD of the PROPOSED PROJECT. This change shall be on an AADT and average peak hour basis for Test 1 and a Peak Season, Peak-Hours-to-be-studied basis for Alternate Test 1. The effect of MAJOR PROJECTS shall be considered in projecting the increase or decrease in traffic volumes so as to ensure that there is no double counting or omission in BACKGROUND TRAFFIC. In using the historical growth tables, engineering judgement shall be used to take into account special circumstances such as the opening of a parallel road or a high traffic generation that may distort the growth trend. For projects with a lenghthy buildout time (five (5) years or more) an areawide growth rate using a number of locations in the tables may be appropriate. No growth rate less than zero (0%) percent may be used without approval of the COUNTY ENGINEER when the growth rate is a negative. Zero (0%) percent shall be used unless approved by the COUNTY ENGINEER.

(c) Major Project Maps. Using the MAJOR PROJECT Maps, all traffic from the unbuilt portion of MAJOR PROJECTS which have received a concurrency reservation prior to the County Engineer's approval of the PROPOSED PROJECT'S traffic study which will add more trips than ten percentum (10%) of the LEVEL OF SERVICE D (Table 1A) to any Link within the PROPOSED PROJECT'S RADIUS OF DEVELOPMENT INFLUENCE during the BUILDOUT PERIOD OF PROPOSED PROJECT shall be specifically accounted for in projecting TRAFFIC. No double counting of trips shall occur, and the historically derived projections shall be adjusted based upon the impact of MAJOR PROJECTS. Only the traffic generated from the unbuilt portions of the MAJOR PROJECTS as set forth above which are projected to be built during the BUILDOUT PERIOD of the PROPOSED PROJECT shall be considered.

(d) Background Traffic - The projection of BACKGROUND TRAFFIC during the BUILDOUT PERIOD of the PROPOSED PROJECT shall be based upon, and subject to the review and approval of the COUNTY ENGINEER, or Municipal Engineer on Project Traffic of fewer than 1,001 Gross Trips, using the following criteria:

(i) historical growth shown on tables of COUNTY ENGINEER
(ii) characteristics of growth in the RADIUS OF DEVELOPMENT INFLUENCE
(iii) extent of existing, approved, and anticipated development in the Radius of Development Influence
(iv) types and sizes of development in the area
(v) traffic circulation in the area
(vi) MAJOR PROJECTS' impact
(vii) new and assured road construction

(10) Assured Construction - ASSURED CONSTRUCTION shall be considered completed as scheduled for the purpose of preparation of the study. Whether it is in fact ASSURED CONSTRUCTION and the timing of the ASSURED CONSTRUCTION shall be subject to the confirmation of the COUNTY ENGINEER. The Traffic Impact Study shall specifically identify the need for phasing based on Assured Construction.

(11) Project Phasing - The traffic study may reflect a proposed phasing schedule for the development of the PROPOSED PROJECT. This schedule shall address the time at which each phase will place traffic impacts on the MAJOR THOROUGHFARES within the RADIUS OF DEVELOPMENT INFLUENCE and shall include the following:

(a) Generation - Project traffic figures and assignments for each proposed phase; and

(b) Assured Construction - Where the evaluation of phased traffic impact includes the effect of ASSURED CONSTRUCTION, sufficient information regarding the proposed construction to ensure that the roadways realistically will be constructed at the times stated.

(12) Peak Hours - Generally, for the detailed analysis, and the site related analysis, the study shall address the AM and PM Peak Hours Total Peak Hour Traffic, unless traffic characteristics dictate that only one of the Peak Hours be analyzed. In some cases, the COUNTY ENGINEER, or Municipal Engineer on Project Traffic of fewer than 1,001 Gross Trips, may still require analysis of other Peak Hours where indicated by accepted traffic engineering principles. The total peak hours analyzed shall not exceed two (2) in number.

(1) For proposed Projects generating more than seven thousand (7,000) Net Trips, information sufficient for the County Engineer to utilize the Model to assign Net Trips to the Model Plan.

(14) Compliance - The analysis must demonstrate compliance with the standard contained in Section 7.9.(I) D, Subsection 2(A) and (B); "Standard, Build-out/Model Standard Buildout Test, Model Test."

(15) Professional Services - The traffic study shall be prepared, sealed and signed by a qualified professional engineer, licensed to practice in the State of Florida and practicing traffic engineering.

(16) A list of Municipalities within the proposed Project's Radius of Development Influence.

Subsection 3. Detailed Analysis of Alternate Test One.

(a) The Detailed Analysis for Alternate Test One shall meet the following requirements in addition to all other requirements of this Section 7.9.(I) E:

(1) Transportation Research Board Special Report 209 shall be used as the methodology for analysis.

(2) The afternoon Peak Hour between four (4) and six (6) PM during the Peak Season shall be studied in all cases. Generally, the morning Peak Hour between seven (7) and nine (9) AM during the Peak Season shall be also studied, unless higher volumes occur outside of the seven (7) to nine (9) A.M. period at the intersection are observed. In that case other Peak Hours outside of the seven (7) to nine (9) A.M. period during the Peak Season shall be used.

(3) Each AM and PM Peak Hour shall be the highest sum of the volume on the approaches to the intersection. It shall be the highest sum of four (4) continuous fifteen (15) minute periods.

(4) Once the AM and PM Peak Hours are established, the PEAK HOUR NET TRIPS shall be assigned to the Major Intersection and Link for the Peak Hours studied.

(5) The Major Intersections at each end of an over-capacity Link shall be studied, unless the Major Intersection is not signalized, in which case the County Engineer or Municipal Engineer may require study of an alternate signalized or unsignalized intersection within the Link, based on generally accepted traffic engineering principles.

(6) The critical volume for the Major Intersection shall be projected over the Buildout Period of the Project by proportionally increasing the approaches and movements based upon the Historical Traffic Growth Table or other generally accepted traffic engineering principles using the best available information.

(b) Effect of Detailed Analysis. The approach or Link data for the subject approaches or Link shall be used for a period of six (6) months following the date of the earliest-gathered data, unless the County Engineer provides a shorter time because of a Major Project's impact or other substantial changes in the area affecting the intersection such that volumes or travel patterns would likely change. The County Engineer shall maintain a list of the dates when the approach and Link data were gathered, and the expiration date of such. If newer data are available, they shall be used.

(c) Off-Peak to Peak Season factors shall be established by the County Engineer for various areas of Palm Beach County based upon the best available data and generally accepted traffic engineering principles. Other factors based on generally accepted traffic engineering principles shall be used to update data where newer data can not be obtained.

Subsection 4. Site Related Improvements.

In addition to the LINK and intersection standards and studies, all peak hour(s) turning movements (including Pass-by trips) shall be shown and analyzed using the analysis in the 1985 Manual for all points where the PROJECT's traffic meets the DIRECTLY ACCESSED LINKS or other roads. Recommendations shall be made concerning signalization and turn lanes. For projects in the Unincorporated Area, the County may require such to ensure the safe and orderly flow of traffic.

Subsection 5. Conditions.

The Concurrency Reservation or Site Specific DEVELOPMENT ORDER shall contain such conditions as are necessary to ensure compliance with this Section. The Local Governments, including the legislative and administrative boards, the Palm Beach County Development Review Committee (DRC), and officials, issuing Concurrency Reservations or Site Specific DEVELOPMENT ORDERS are authorized to, and shall, impose such conditions. The Local Governments including the legislative and administrative boards, the DRC, and officials shall require where necessary to ensure compliance with this Section that a ROAD AGREEMENT or other AGREEMENT be executed prior to the issuance of the Site Specific DEVELOPMENT ORDER. PERFORMANCE SECURITY shall be required to ensure compliance with the conditions or performance under the AGREEMENT or condition of approval. The AGREEMENT or conditions of approval shall be binding on the owner, its successors, assigns, and heirs; and it, or notice thereof, shall be recorded in the Official Records of the Clerk of the Circuit Court in and for Palm Beach County, Florida.

SECTION 7.9.(I) F - MODELING OF TRIPS.

Subsection 1. Generally.

The Department of Community Affairs in conjunction with the Florida Department of Transportation requires that all Traffic from both approved-built and approved-unbuilt Projects be "loaded" on the Major Thoroughfare system. This loading is done by the Model using the Modified 2010 Plan.

Subsection 2. Relationship to Traffic Impact Studies.

(A) The Model is intended to be used as a planning tool to estimate the remaining available capacity on the Major Thoroughfare system. It is a general planning tool which does not lend itself to analyzing specific Traffic Impact Studies. Therefore, Applicants should not assign Project Traffic using the Model. However, Applicants may provide input to the County Engineer or the Metropolitan Planning Organization in updating the data and recalibrating the Model.

(B) Notwithstanding paragraph (A) above, the Model shall be utilized by the County Engineer to assign Net Trips for Test Two purposes on proposed Projects generating more than seven thousand (7,000) Net Trips.

The Model Plan is a long-term plan. Because of its distance in time, many things may change which will result in a different Major Thoroughfare system. Therefore, it is not accurate for purposes of ensuring that road capacity not be "given away" twice.

Subsection 3. Iterative Model.

(A) Information in Plan's Table 2. Socio-economic data from all municipally-approved but unbuilt Projects were not included in the model because the data was not available. All approved but unbuilt Projects in the unincorporated area were included. It is anticipated that some of these unincorporated Projects will not receive Concurrency Exemption Determinations under the Concurrency Exemption Ordinance. It is presently believed that this overestimation of County approvals and absence of municipal approvals roughly balances, resulting in an acceptable estimation for the determination of Model Traffic for the application of this Section for a relatively short time.

However, it is necessary as a planning tool and a concurrency management tool that the County establish an estimation that warrants confidence. The County shall complete its socio-economic data update from its Concurrency Exemption process no later than July 1, 1991. Any units or square footage lost through the application of the County's Unified Land Development Code shall be removed from the Model socio-economic data as approved, unbuilt land uses.

(B) Municipal Responsibility.

(1) Therefore, by July 1, 1991, the Planning Division, with the cooperation of the municipalities, shall establish a final list of approved but unbuilt Projects and built Development in the municipalities. The list shall include the estimated buildout date for each residential project containing more than fifty (50) units. The traffic from these approvals shall be "loaded" in the Model no less frequently than every six (6) months as data is gathered and refined.

(2) In order to update the socio-economic data used in the Model, the Municipality shall identify and provide the County with preliminary but complete information as to specific uses approved, their locations, the density or intensity of each use, and the extent of the development already built and yet to be built. This shall be sent to the County as soon as practical following receipt of the data forms and maps from the Palm Beach County Planning Division. These forms and maps shall be used by the municipality.

(3) (a) The municipality shall update this information no less frequently than every six (6) months as a result of all new information, including SITE SPECIFIC DEVELOPMENT ORDERS issued after preliminary submittal referenced in paragraph (2) and units or square footage lost through the application of the Municipal land development regulations. Updates to the socio-economic data base which are the result of municipal determinations as to Previous Approvals shall be sent to the County Engineer within fifteen (15) days of each determination but in no case no later than July 1, 1991. This updated information shall be used for informational purposes to update the socio-economic data base, by TAZ, for the Model.

(4) Subsequent to the six (6) month update of the Model, appeals by interested persons who provided written input in accordance with Subsection (2) may be filed with the Appeals Board established in Section 7.9.(I) I; Appeals. Appeals shall be filed within thirty (0) days of the County Engineer's publishing of the updated Model information, care of the County Engineer, Traffic Division. The appeals shall state the grounds therefor.

(5) Nothing herein shall restrict input on the Model outside of the process of this paragraph B.

Subsection 4. Adjustments

(A) AADT - The Model reflects Peak Season weekday average daily traffic. All updates of the Model shall include an adjustment to reflect Average Annual Daily Traffic.

(B) Phasing/Assured Construction

(1) That traffic from the portion of a project phased to improvements on a LINK which are not included in the Model Plan shall not be included in the Model until the LINK, as improved, is included in the Model Plan.

(2) Assured construction shall be included in the Model Plan system.

SECTION 7.9.(I) G - PROCEDURE.

Subsection 1. Required Submission of Impact Study.

(A) When submitted - Prior to acceptance of any application for a Site Specific DEVELOPMENT ORDER in the unincorporated area, or issuance of a Site Specific Development Order in the incorporated area, a non-refundable application fee established by the Board of County Commissioners from time to time to defray the actual cost for processing the application, shall be submitted along with one of the following:

(1) Documentation sufficient to establish that the application is not subject to this Section pursuant to Section 7.9.(I) C, Subsections 2 or 5; "Applicability, Previously-approved Development Orders" "Municipal Determination of Previous Approval"; or

(2) Documentation sufficient to establish that this section does not apply to the application pursuant to Section 7.9.(I) C, Subsection ; "Applicability, Non-applicability"; or

(3) TRAFFIC IMPACT STUDY.

(B) Review by County Engineer - the COUNTY ENGINEER or Municipal Engineer, as applicable, shall review the information submitted pursuant to paragraph (A) and determine whether the PROPOSED PROJECT complies with this Section. In the unincorporated area the County Engineer shall coordinate with the Planning Division whether the Site specific Development Order meets the other Concurrency Requirements of the Plan. The procedures set forth in the Adequate Public Facilities Section, shall control; except as to any appeals from this section, in which case Section 7.9.(I) I, "Appeals," of this Section shall control. Nothing herein or in the Adequate Public Facilities Section shall preclude direct informal communication between the County Engineer and the Applicant or his agents. In the Unincorporated Area, a statement that an application for a Site Specific Development Order is being considered shall be sent to any Municipality within the proposed Project's Radius of Development Influence thirty (30) days prior to the issuance of the Site Specific Development Order for all proposed Projects generating more than one thousand (1,000) Gross Trips. The statement shall be sent by U.S. Mail, or hand delivered.

(C) No Study Needed.

(1) Residential - Residential Projects generating fewer than two hundred (200) Gross Trips based on standard Institute of Transportation Engineers rates of seven (7) trips per multi-family unit and ten (10) trips per single family unit shall not be required to submit a Traffic Impact Study. The NET TRIPS shall be distributed over the Major Thoroughfare system by the County Engineer or Municipal Engineer, as the case may be, in accordance with generally accepted traffic engineering principles.

(2) Non-residential amendments - Amendments to non-residential Projects generating fewer than two hundred (200) Gross Trips based on standard Institute of Transportation Engineers rates for the particular use of land shall not be required to submit a Traffic Impact Study, provided the amendment does not change the use.

(3) Exceptions - If Alternate Test One is utilized a TRAFFIC IMPACT STUDY shall be submitted. If the APPLICANT desires to appeal the distribution or decision of the County or Municipal Engineer, a Traffic Impact Study shall be submitted. The standards of this Section shall be met.

Subsection 2. Review of Traffic Impact Study

(A) County Engineer Review - On all proposed Projects having more than one thousand (1,000) daily Gross Trips, the County Engineer shall have sole authority for reviewing Traffic Impact Studies for purposes of determining compliance with this Section.

(B) Municipal Review - On all other proposed Projects the Municipality shall perform such review unless the Municipality provides in writing, delivered to the County, that the Municipality elects to require review by the County Engineer. If the Municipality elects to perform the review, it shall be done by a Municipal Engineer. The review shall be in accordance with the requirements of this Section. In the case of Municipal review, thirty (30) days prior to approval of the application for the Site Specific Development Order, the Traffic Impact Study, along with the determination of the reviewing traffic engineer, shall be sent to the County Engineer, c/o Traffic Division, 160 Australian Avenue, West Palm Beach, Florida, 33402. A statement that the Municipality is considering an application for a Site Specific Development Order shall also be sent to any Municipality within the Project's Radius of Development Influence involved thirty (30) days prior to issuance of the Site Specific Development Order for all proposed Projects generating more than one thousand (1,000) Gross Trips. All documents under this section shall be sent by U.S. Mail, or hand delivered.

(C) Prohibitions.

(1) In the case of all Site Specific DEVELOPMENT ORDERS issued by the DRC, no application shall be certified for inclusion on the DRC agenda if issuance of the Site Specific DEVELOPMENT ORDER would be prohibited by this Section.

(2) In the case of all other Site Specific Development Orders in the unincorporated area, no application shall be accepted if issuance of the Site Specific Development Order would be prohibited by this Section.

(3) In all cases in the unincorporated area if the Site Specific Development order does not meet the other Concurrency Requirements of the Plan, no application shall be certified for inclusion on an agenda of a reviewing body or accepted, as the case may be, except as otherwise provided by Article 11 of the Unified Land Development Code.

(4) In the case of all Site Specific Development Orders in the Incorporated Area, no Site Specific Development Order shall be issued if such issuance would be prohibited by this Section. In no case shall the Site Specific Development Order be issued prior to thirty (30) days following delivery of the notice in accordance with paragraph B of this Subsection 2.

(D) Appeals - Determinations of the COUNTY ENGINEER or Municipal Engineer must be in writing and any denial shall state the reasons thereof. Determinations of denial may be appealed pursuant to Section 7.9.(I) I; "Appeals"; of this Section.

SECTION 7.9.(I) H - ENTITLEMENT.

Subsection 1. Generally.

(A) The Board of County Commissioners recognizes that a reasonable and beneficial economic use of property should be afforded a property owner. This Section is intended to implement the provisions in the Plan that allow a reasonable and beneficial economic use of property while minimizing trip generation.

Subsection 2. Unincorporated Area.

As to the Unincorporated Area, a Site specific DEVELOPMENT ORDER may be issued for a PROJECT not exceeding entitlement density or intensity set forth in the Plan, provided the order is otherwise consistent with the requirements of the Plan and land development regulations of Palm Beach County.

Subsection 3. Incorporated Area.

As to the Incorporated Area, a Site Specific Development Order may be issued for a Project not exceeding entitlement density or intensity as set forth in the Plan. As to residential land uses it shall be based on the densities set forth in Figure 2 of the Land Use Element of the Plan, that correspond to the Municipal density in its Comprehensive Plan, with any density exceeding eighteen (18) dwelling units per acre receiving the entitlement level set forth in the 5-to-18-du-per-acre range. As to commercial and industrial, entitlement shall be two and one-half percent (2 1/2%) of the maximum square footage of floor area allowed under the land use category or zoning district of the Municipality.

Subsection 4. Discretion of Board.

The Board of County Commissioners may exceed the limitations set forth in the Plan upon a determination by the Board that the limitations permitted by the Article would likely constitute a taking of land for public use for which compensation would have to be paid pursuant to law. This Subsection 4 may only be exercised upon the special petition of the property owner to the Board of County Commissioners which affirmatively demonstrates by substantial competent evidence that no other economically feasible land use which would generate less traffic for the subject property is available because of: (1) this Section; (2) the nature of the land uses in the area; (3) the size and configuration of the property; and (4) other relevant factors. The Board of County Commissioners shall receive the advice of the County Attorney and the County Administrator, and any other person it deems appropriate in exercising its discretion under this Subsection 4. If the subject Lot is in the Incorporated Area, the Board of County Commissioners shall consider the advice, if any, of the Municipality in which the Lot is located.

SECTION 7.9.(I) I - APPEALS.

Subsection 1. Board.

Except as specifically provided in this Section, appeals from the decisions of the COUNTY ENGINEER or Municipal Engineer, and from all traffic engineering decisions, shall be taken to the Traffic Performance Standards Appeals Board. Appeals may be brought by the Applicant, any Municipality within the Project's Radius of Development Influence, and the County. The Board shall consist of the Director of the Metropolitan Planning Organization, a professional traffic engineer employed by a municipality as a traffic engineer, a professional traffic engineer employed by another Florida County, a professional traffic engineer employed by the Florida Department of Transportation, District IV, and a professional traffic engineer who generally represents developers. Any individual serving on the appeals board shall not be a person who participated in the decision being appealed, or who works for or is retained by a party to the appeal or a person who would be directly affected by the matter being appealed or the Proposed Project to which the appeal relates.

Subsection 2. Request/Notice.

The appeal shall be requested in writing within thirty (30) days of the decision of the COUNTY ENGINEER or Municipal Engineer, as applicable. The written request for the appeal shall state the grounds for objection. The appellant shall be given written notice of the date, time and place of the appeal board's consideration of the appeal. The appeal shall be limited to the issues raised in the objection.

Subsection 3. Hearing.

(A) Burden of Proof - The appellant shall present all relevant information to the appeals board. The appellant shall have the burden of affirmatively demonstrating that the decision of the COUNTY ENGINEER or Municipal Engineer was in error. The COUNTY ENGINEER or Municipal Engineer shall be entitled to present information.

(B) Reimbursement - Members shall serve without compensation but shall be reimbursed in accordance with County rules and regulations.

(C) Quorum - A quorum shall consist of three (3) members and a decision shall be made by affirmative vote of a majority of the members.

(D) Decision - The appeals board shall base its decision on the requirements of this section and accepted traffic engineering principles. It shall state the reasons for the decision. A decision shall be rendered within sixty (60) days of receipt of the written request for appeal.

Subsection 4. Appeal from Appeals Board.

The decision of the appeals board may be appealed by petition for writ of certiorari to the Fifteenth Judicial Circuit Court by either the Applicant or a Local Government within thirty (30) days of the decision. Consideration shall be limited to the record established before the appeals board.

Subsection 5. No Impairments of Judicial Rights or Remedies.

Nothing in this Section shall be construed as a limitation on the rights or remedies of any person. Appeals from decision of persons other than the County Engineer or Municipal Engineer, and traffic engineering decisions, shall be by appropriate action to a court of competent jurisdiction, except as provided otherwise by law, including this Section.

SECTION 7.9.(I) J - AFFORDABLE HOUSING.

Subsection 1. Intent.

The provision of affordable housing is a public purpose. Because of various circumstances, people with lower incomes are being priced out of adequate housing. The Housing Element of the Plan establishes Goals, Objectives, and Policies (GOP's) relative to the provision of housing for very low and low income persons. These GOP's recognize the need for a multifaceted approach to promote very low and low income housing. Traffic Performance Standards can be used as one method to further the provision of very low and low income housing.

Presently, some of the approaches in the Housing Element have not been adopted or implemented. Accordingly, the approach set forth in this Section shall be reviewed in conjunction with the development of other approaches contemplated in the Plan.

This Section addresses the provision of very low and low income housing in both developments and single lots. Reference in this Section to "affordable housing" means very low and low income housing. Reference to "market rate housing" means all other residential units in a Project to provide Affordable Housing. This Section 7.9.(I) J applies to publicly and privately provided housing.

Subsection 2. Applicability.

(A) (1) This Section 7.9.(I) J applies to Projects to Provide Affordable Housing. Very low and low income limits for purposes of this shall be as set forth in the U.S. Department of Housing and Urban Development, Subsection 8 Income Guidelines, West Palm Beach - Boca Raton - Delray Beach, Florida.

(2) Very low and low income housing shall be that housing where mortgage payments, taxes, insurance, and utilities on owner-occupied housing; and contract-rent and utilities on renter-occupied; is less than or equal to thirty percent (30%) of the applicable Adjusted Gross Income as described in the preceding paragraph.

(B). Projects which are Projects to Provide Affordable Housing shall:

1. measure total NET TRIPS (including market-rate units) against, and the Level of Service shall be, Level of Service E for all Links and Major Intersections under Test One and Level of Service D under Test Two using a Radius of Development Influence and Model Radius of Development Influence based on NET TRIPS.

2. measure the total traffic derived from market rate residential units against, and the Level of Service shall be, a volume one-third of the way between Level of Service D and Level of Service E for all Links and Major Intersections under Test One and Level of Service D under Test Two using a Radius of Development Influence and Model Radius of Development Influence based on NET TRIPS exclusive of very low and low income unit traffic and excluding consideration of very low and low income unit traffic on the Major Thoroughfare System.

(C). Notwithstanding paragraph (B), above, a Project to Provide Affordable Housing that consists of one hundred percent (100%) very low and low income housing units need not meet the Level of Service standards of this Section if the Project adds Net Trips in an amount less than or equal to one percent (1%) of the Average Annual Daily Traffic Level of Service D on any directly accessed Link. Traffic from these projects may not cumulatively exceed one percent (1%) of Adopted level of service D standard on any link in any one year. The maximum cumulative traffic from these projects on any link shall not exceed five percent (5%) of the Adopted level of service D standard.

(D). Notwithstanding paragraphs B and C above, all Project Traffic (including Traffic from very low and low income units) shall be considered in analyzing capacity and performing Traffic Studies for all other purposes including all other proposed Projects' Traffic Impact Studies.

Subsection . Designation of a Project to Provide Affordable Housing.

(A). Development of Criteria. The Commission on Affordable Housing shall develop criteria for evaluating the appropriate mix of very low, low, and other housing in a Project to qualify for the special applicability of Section; 7.9.(I) J, Subsection 2(B). The criteria shall be based in part on the twelve County Directions in the Land Use Element of the 1989 Palm Beach County Comprehensive Plan. These criteria shall be established by ordinance of the Board of County Commissioners. The Ordinance shall also provide for a covenant running with the land to ensure the continued affordable housing status of the property.

(B). Applicability of Criteria. A Project for which the special applicability of Section 7.9.(I) J, Subsection 2(B), is sought shall be reviewed by the Commission on Affordable Housing to determine the appropriate mix of very low, low, and other housing necessary to qualify for the special applicability. The determination shall be based on the criteria adopted as called for in paragraph A, above. The determination shall be made by the Board of County Commissioners upon the recommendation of the Commission on Affordable Housing. Once the appropriate mix is established, and other appropriate conditions imposed related to the criteria, the Project shall be considered a Project to Provide Affordable Housing and be eligible for special applicability under Section 7.9.(I) J, Subsection 2(B).

SECTION 7.9.(I) K - CONSTRAINED FACILITIES.

Subsection 1. Purpose/Intent.

It is recognized by the Board of County Commissioners that some Links and Major Intersections are not planned to be widened to width, laneage, or geometrics that can accommodate Traffic from the density/intensity and location of land uses at the Generally-Adopted Level of Service. Links and Major Intersections which are improved (or presumed to be improved under Test 2) to their ultimate width, laneage, and geometrics as contemplated by the Thoroughfare Right of Way Protection Map are, by definition, Constrained Facilities. Which of those Constrained Facilities cannot accommodate future Development at the Generally Adopted Level of Service, and what should be done to remedy the situation, requires thorough study, comprehensive data, and close scrutiny of the various policies involved. This Section is intended to ensure thorough review of application for a constrained road at a lower Level of Service (CRALLS). It is declared to be the minimum review and procedure necessary to ensure an appropriate level of review.

Subsection 2. Procedure.

(A) General.

Constrained Facilities shall not automatically receive a reduced level of service. Determinations of whether a reduced level of service shall be set on a Constrained Facility, and what that Level of Service should be, shall be made by the Board of County Commissioners.

(B) Applications.

Applications for a reduced level of service on a Constrained Facility shall be made to the Board of County Commissioners through the Executive Director for initial review by the Land Use Advisory Board (LUAB), containing such information relating to the criteria of this section as the LUAB requires. The application shall be forwarded to all affected Local Governments, the County Engineer, the Florida Department of Transportation, District IV, in the case of State Highways, and the Metropolitan Planning Organization. The Metropolitan Planning Organization shall review the proposal for technical traffic engineering purposes and consistency with its adopted plan. The advice of the Metropolitan Planning Organization shall be considered by the LUAB and the Board of County Commissioners when considering an application for a reduced level of service. The application shall propose the reduced level of service sought for Test One and Test Two. It need not be an entire range.

The level of data and study needed for existing and future land use to review an application for a CRALLS designation shall be determined in the preapplication conference. The decision shall be made by the County Engineer based upon the Major Thoroughfare Links and Major Intersections involved, (whether they are or will be collectors, minor arterials, or principle arterials), the extent of the proposed lowering of the level of service, the size of the area affected, the extent to which the affected area is built out to its ultimate future land use, and the amount and quality of existing data and planning.

(C) Preapplication conference.

The applying Local Government shall contact the Executive Director prior to making application, notifying the Director of the Local Government's intent to make application under this Section 7.9.(I) K. The Director shall set a preapplication conference prior to accepting an application. The conference shall include representatives of the: (1) Local Government making application; (2) County including the Planning Division and County Engineering; (3) Florida Department of Transportation, District IV; (4) Treasure Coast Regional Planning Council; and (5) Metropolitan Planning Organization. The purpose of the preapplication conference shall be to identify the issues for consideration, the likely impact of the proposal, the assumptions and changes made in socio-economic data (including justification for such), the application requirements (including which should be waived, if any), and to coordinate review. The level of data and study needed for existing and future land use, and the proposed CRALLS, to review the proposed application shall be determined in the preapplication conference. The decision shall be made by the County Engineer based upon the magnitude of the proposed CRALLS, the difference from existing and future land use, the extent of the proposed lowering of the level of service, the amount and quality of existing data and planning, the size of the area affected, the extent to which the affected area is built out, and the Major Thoroughfare Links and Major Intersections involved (whether they are or will be collectors, minor arterials, or principle arterials).

(D) Sufficiency Review/Recommendation.

The review agencies shall have sixty (60) days within which to review the application for sufficiency and the Director shall notify the Local Government as to the specific deficiencies. The Local Government shall have sixty (60) days to provide the additional information or notify the Director that it is electing to withdraw its application. The application shall be reviewed by all agencies within sixty (60) days of the determination that the application is sufficient. The LUAB shall make its recommendation within six (6) weeks of receiving all agencies' reviews. The Board of County Commissioners shall take action on the application in accordance with Florida Statutes, Chapter 163 and Florida Administrative Rule 9J-5.

Subsection 3. Determination Criteria.

In determining whether a Constrained Facility shall have a reduced Level of Service and, if so, what that level of service should be, and any conditions that shall be imposed, the applicant, the Metropolitan Planning Organization, LUAB, and the Board of County Commissioners shall consider the following public policy criteria:

1. Cause of the constraint; e.g., whether the laneage or geometrics are insufficient to accommodate projected traffic as a result of concerns relating to physical limitations, fiscal limitations, environmental areas, aesthetics, historically significant development, or the character-of-area or neighborhood and the impact of adding lanes or changing the geometrics on such concerns.

2. When more than one cause is identified, the extent to which each contributes to the constraint shall be considered.

3. Existence of, or proposed, "reliever" facilities and the proximity and continuity of such, and the extent to which they presently, or are projected to, relieve the Constrained Link.

4. The existing and projected volume-to-capacity ratio given the adopted Future Land Use Elements of Local Governments' Comprehensive Plans, and the Countywide Future Land Use Element.

5. The extent of vested Development Orders, and non-vested land use, zoning district designations, or Development Orders.

6. The impact on the ability of Local Governments to allow Development consistent with their comprehensive plans; and the interjurisdictional compatibility of the various Local Government comprehensive plans as related to the Constrained Facility.

7. The practicability of adjusting land uses, zoning districts, and uses therein.

8. The impact on the ability of the overall Major Thoroughfare system in the area affected to function at the Generally Adopted Level of Service.

9. The length of the Constrained Link(s).

10. The option of modifying the Plan, including the Thoroughfare Right-of-Way Protection Map, or other regulations to add lanes, improve geometrics or reliever facilities.

11. Whether modifications can be made that would add capacity, and how much capacity would be added.

Subsection 4. Determination.

The Board of County Commissioners may adopt a reduced level of service and shall specifically establish the level of service on the Constrained Link, if reduced. When the Board of County Commissioners makes a determination that a reduced level of service is appropriate on a Constrained Facility, it shall be designated a Constrained Road at a Lower Level of Service (CRALLS). The Comprehensive Plan shall be modified to set this level of service. A reduced level of service need not necessarily be a whole range; it may be a portion of a range.

Any proposed reduction in the level of service on a State Constrained Facility shall be coordinated with and approved by the State in accordance with Florida law.

It is recognized that detailed and comprehensive transportation planning has not yet been completed for all of Palm Beach County. This transportation planning will involve balancing the transportation system to the land use as to density/intensity and location. This balancing will involve, in part, adjusting the levels of service on the Major Thoroughfare system. It will be achieved through the work of the Metropolitan Planning Organization's work in updating the Model, and improving the data. Theoretically, once this balancing is completed, the need for CRALLS would not be necessary, unless amendments to land uses are made, or right-of-way widths or lanes are reduced. Accordingly, once the system is balanced through the work on the Model and data, the criteria shall be revisited to ensure that the criteria take into account this balancing.

Subsection 5. Application to Modify or Eliminated Adopted Link or Intersection.

(A) Who may apply.

Only a Local Government may apply to the Board of County Commissioners to amend the adopted width, proposed geometrics, or number of lanes of, or to eliminate a Link or Major Intersection improvements.

(B) Contents.

The application shall contain a detailed and comprehensive traffic evaluation of all affected Links and Major Intersections, taking into account existing, committed, and future land use development.

(C) Criteria.

The following criteria shall be considered by the Board of County Commissioners in considering whether a Link's lanes, proposed geometrics, a Major Intersection's proposed geometrics or the right-of-way width adopted in The Plan should be amended or a Link should be eliminated:

1. Whether improvements are proposed to the Link or Major Intersection under consideration.

2. Whether improvements are proposed to reliever Links or Major Intersections and the extent that such a reliever would impact traffic on the Link under consideration.

3. The physical characteristics of the property adjacent to the Link or Major Intersection under consideration.

4. The character of the area businesses or neighborhood adjacent to the Link or Major Intersection under consideration, and the extent of impact on such.

5. The projected cost of adding additional capacity to the Link or Major Intersection, or reliever facilities and the amount of capacity that would be added.

6. The existing and projected volume-to-capacity of the Link and the surrounding Major Thoroughfares before and after the proposed modification.

7. The projected revenue for improving the Major Thoroughfare system and the likely priority of various improvements to the Major Thoroughfare system.

8. Environmental character and the extent of impact on such.

9. Historical significance and the extent of impact on such.

10. Aesthetics and the extent of impact on such.

11. Amount of existing right of way, and cost to obtain additional right of way.

12. Impact on the provision of other public facilities.

(D) Procedure/extraordinary vote.

(1) When an application is made to eliminate a Link, narrow the adopted width of a Link, modify the proposed geometrics of a Link, or Major Intersection, in a manner that would reduce capacity, or reduce the number of lanes in the Plan, and that elimination, narrowing, modification, or reduction would materially impede: (1) the ability to achieve the Adopted Level of Service on the particular Link or Major Intersection, or the Major Thoroughfare system; or (2) the ability of Local Governments to allow Development consistent with their Future Land Use Elements of their Comprehensive Plans and the Countywide Future Land Use Element; the Board of County Commissioners shall require a review and determination of whether a reduced level of service (CRALLS designation) should be set on the Link or other Links before the Board of County Commissioner's eliminating the Link, narrowing the right-of-way width, modifying the proposed geometrics, or reducing the number of lanes. In such a case, eliminating the Link, narrowing the width or reducing the number of lanes shall require a majority-plus-one vote of the members of the Board of County Commissioners. No elimination of the Link, narrowing of the width, or modifying of the proposed geometrics in a manner that would reduce capacity, or reducing the number of lanes on a Link shall be effected until any necessary adjustments are made to: (1) the Major Thoroughfare system (including capacity improvements or lower the levels of service, as appropriate); (2) or the land uses have been made to accommodate the elimination, narrowing, modification, or reduction.

(2) If it is clear that no impediment to: (1) achieving the adopted level of service; or (2) Local Governments' allowing Development consistent with the Future Land Use Element of their Comprehensive Plans would result, the Board of County Commissioners may, by a majority vote of its members narrow the adopted width, modify the proposed geometrics of a Link, or Major Intersection, or reduce the number of lanes in the Plan without LUAB review. Nothing herein shall require CRALLS review, application to the LUAB, or notice to any Local Government for minor modifications to the proposed Major Thoroughfare system which do not reduce capacity of the Link, Major Intersection, or Major Thoroughfare System. Nothing herein shall require LUAB review for waivers of expanded intersection requirements or right of way protection pursuant to Policy 2-d of the Traffic Circulation Element of the Plan.

SECTION 7.9.(I) L - COASTAL RESIDENTIAL EXCEPTION.

Subsection 1. Intent.

The Coastal Residential exception to the level of service requirements of this Section promotes urban infill and deters urban sprawl. It also promotes redevelopment. It provides closer proximity of residential uses to commercial uses and employment bases, thereby reducing the impact on the overall Major Thoroughfare system, pollution, the use of fossil fuels and other resources, and the travel time and needs of the public. Because it applies only to the incorporated area, it also promotes annexation of unincorporated areas. Therefore, the public benefits of an uncrowded and efficient road system promoted by this Section are also promoted generally (but not necessarily on a specific Link or Major Intersection) by the creation of a Coastal Residential exception to the level of service requirements of this Section. The Coastal Residential exception may also result in more integration in the Palm Beach County School system.

Subsection 2. Creation.

Because of these public benefits there is hereby established pursuant to Policy 4-h of the Traffic Circulation Element of the Plan a Coastal Residential exception which shall be within the Incorporated Area east of I-95, north of the Broward County line, west of the Atlantic Ocean (excluding the barrier island), and south and east of a boundary from I-95 along PGA Boulevard to Prosperity Farms Road, then north to the western prolongation of the northern boundary of Juno Isles, then each to a point six hundred feet (600') west of U.S. 1, then north to the northern boundary of Juno Beach, then east to the Atlantic Ocean. It shall also be the unincorporated area bounded on the south by the north boundary of the Jupiter Hospital, and its eastern and western prolongation between the Atlantic Ocean and Military Trail; bounded on the west by Military Trail and its northern prolongation to the North Fork of the Loxahatchee River, then meandering northwest along the northeast shore of the North Fork of the Loxahatchee River to the Martin County Line; bounded on the north by the Martin County Line; and bounded on the east by the Atlantic Ocean, excluding the barrier island. It shall allow such residential projects, and the residential portion of mixed use projects that otherwise meet the standards of this Section, in incorporated areas to receive a Site Specific Development Order notwithstanding the standards of this Section.

Subsection 3. Traffic Impact Study Information.

The Applicant shall submit a traffic study meeting the informational requirements of this Section.

Subsection 4. Municipal Levels of Service.

Nothing in this Section shall be construed as derogating the requirement under Chapter 16, Florida Statutes or Rule 9J-5, Florida Administrative Code that Municipalities set the Level of Service on County and State roads consistent with the County and State Level of Service to the maximum extent feasible.

SECTION 7.9.(I) M - GEOGRAPHIC EXCEPTIONS.

Subsection 1. Generally.

A. A safe efficient, convenient, and economical Major Thoroughfare system serves a public benefit and is a goal, objective, or policy (GOP) of the State, Regional, and Local Government Comprehensive Plans. There are, however, other GOP's in these plans which require a balance in establishing the Adopted Level of Service.

Other GOP's vary in degree of importance and extent to which they compete with the goal of a safe, efficient, convenient, and economical Major Thoroughfare system. Some are public benefits recognized as substantial, even paramount, goals. Some are more substantial health, safety, and general welfare concerns than others. Some compete to the extent of an irreconcilable conflict with the goal or objective of a safe, efficient, convenient, and economical Major Thoroughfare system. Some are more compatible with this goal or objective. Finally, different jurisdictions have different views on the relative importance of these various GOP's, and each jurisdiction might strike a different balance between these GOP's. There is hereby established a mechanism to balance these GOP's through LUAB and Board of County Commissioner review and Comprehensive Plan Amendment.

B. Palm Beach County Land Use Advisory Board shall have the authority and responsibility to review geographic exceptions to the adopted level of service for collector and arterial roads which are not the responsibility of any municipality. Proposed geographic exceptions may be initiated only by a local government through the Executive Director. The Director shall notify, in writing, all local governments that may be affected by the geographic exception. The LUAB shall consider the merits of any responses and shall hold a public meeting regarding the proposed geographic exception. The recommendation of the LUAB shall be forwarded to the Board of County Commissioners. The proposed geographic exception may be adopted as an amendment to the countywide ordinance setting levels of service on major nonmunicipal roads and restricting the issuance of development orders referenced in section 1.3 of the Palm Beach County Charter.

C. Types of Area Geographic Exceptions. There are three (3) types of area geographic exceptions created under this Section. These are separate from and in addition to the link geographic exception relating to Constrained Facilities. The three (3) types are: (1) Downtown Core; (2) Special Project, and (3) Community Redevelopment. Each shall be established by amendment to the Palm Beach County Comprehensive Plan.

D. Lower Levels of Service. The proposed geographic exception shall allow for some Links and Major Intersections to operate below Level of Service D for purposes of the issuance of Development Orders in only the geographic exception. However, in setting any level of Service below the mid point between Level of Service D and Level of Service E the CRALLS criteria shall be applied to Constrained Facilities. This shall be a special CRALL's designation for a Downtown Core, Special Project or Community Redevelopment, as the case may be, geographic exception only. The public benefits promoted shall be weighed against the Levels of Service proposed on the various Links and Intersections affected -- the greater the public benefit, the lower the Level of Service which may be set. However, other practicable measures to raise the proposed Level of Service, such as adjusting land uses and making roadway improvements, shall be considered in addition to lowering the Levels of Service.

Subsection 2. Downtown Core Geographic Exception.

A. Intent.

Downtown Core geographic exception would promote a downtown urban character and a compact urban core. They would result in urbanization with a wide variety of land uses, thereby reducing the need for the amount and distance of vehicular travel, and promoting the use of alternate transportation. They would foster regional cultural activity centers. Downtown Core geographic exceptions would also promote urban infill and redevelopment, and deter urban sprawl. Finally, some municipal comprehensive plans provide for a level of development that competes with the goal or objective of an efficient Major Thoroughfare system.

Recognizing these various and often competing GOP's, the Downtown Core geographic exception process is the mechanism that shall be utilized to balance these GOP's.

B. Boundary

(1) Downtown Core geographic exceptions may only be established in an area having the following boundary:

The Atlantic Ocean, excluding Barrier Islands, on the east; the Palm Beach/Broward County line on the south; I-95 on the west; and the Palm Beach/Martin County line on the north.

(2) The boundary may be amended after the conceptual framework on urban form is completed, which is to be done by June, 1992. No boundary amendment shall be made without the LUAB's recommendation.

C. Application.

In addition to all other requirements set by the Board of County Commissioners, the application shall specifically identify the area to which it applies and the Links and Major Intersections affected. It shall propose the Levels of Service for Test One and Test Two for all affected Links and Major Intersections. It shall identify other options that were evaluated and rejected by the Local Government for land use and development type and magnitude within the area proposed as the GAE and their respective impact on achieving the Generally Adopted Level of Service. The reason for rejection shall be contained.

D. Preapplication Conference.

The applying Local Government shall contact the Director prior to making application, notifying the LUAB of the Local Government's intent to make application under this Section 7.9.(I) N and, if applicable for a GAE CRALLS, Section 7.9.(I) L. A preapplication conference shall be set by the LUAB staff prior to accepting an application. The conference shall include representatives of the: (1) Local Government making application; (2) County including the Planning Division and County Engineering; (3) Florida Department of Transportation, District IV; (4) Treasure Coast Regional Planning Council; and (5) Metropolitan Planning Organization. The purpose of the preapplication conference shall be to identify the issues for consideration, the likely impact of the proposal, the assumptions and changes made in socio-economic data (including justification for such), the application requirements (including which should be waived, if any), and to coordinate review. The level of data and study needed for existing and future land use, and the proposed GAE, to review the proposed application shall be determined in the preapplication conference. The decision shall be made by the County Engineer based upon the magnitude of the proposed GAE, the difference from existing and future land use, the extent of the proposed lowering of the level of service, the amount and quality of existing data and planning, the size of the area affected, the extent to which the affected area is built out, and the Major Thoroughfare Links and Major Intersections involved (whether they are or will be collectors, minor arterials, or principle arterials).

E. Who May Apply.

Only the Local Government within which the proposed Downtown Core GAE is located may apply.

F. Identification in Local Government's Plan.

If required by the Department of Community Affairs, the downtown area must be specifically identified as such in the Local Government's Comprehensive Plan, including the Capital Improvement Element if capital improvements are contemplated. If a Comprehensive Plan amendment is necessary for such identification, the amendment may proceed concurrent with the application for the Downtown Core GAE.

G. Sufficiency/Review/Recommendation.

The review agencies shall have sixty (60) days within which to review the application for sufficiency and the Director shall notify the Local Government as to the specific deficiencies. The Local Government shall have sixty (60) days to provide the additional information or notify the Director that it is electing to withdraw the application. The application shall be reviewed by all agencies following the application deadline of June 1. The LUAB shall make its recommendation to the Board of County Commissioners. The Board of County Commissioners shall take action on the application in accordance with Florida Statutes, Chapter 163 and Florida Administrative Code Rule 9J-5.

H. Areawide Traffic Evaluation.

The application shall include an areawide traffic evaluation prepared in accordance with generally accepted traffic engineering principles. It shall explain all assumptions and, for the portion involving the County Engineer's use of the Model (if necessary), what changes were made to socio-economic data and justification for such. It shall evaluate the impact of all development in the Downtown Core GAE on all Links where the impact is three percent (3%) or greater of LOS D, Average Annual Daily Traffic, and on the Major Intersections of such Links.

I. Transportation Concurrency Management Area (TCMA):

If the proposed Downtown Core GAE involves setting a lower level of service on State roads, a TCMA designation may be pursued prior to, or concurrent with, the application for the Downtown Core GAE.

J. Application Period.

Applications shall be accepted between January 1 and June 1 of odd years, beginning 1993.

K. Criteria.

The LUAB and Board of County Commissioners shall be guided by the following criteria in: (1) establishing the boundaries of the Downtown Core GAE; (2) setting the Levels of Service for Links and Major Intersections; (3) establishing the general land uses and amount of each within the GAE; (4) placing any conditions on the Local Government for the GAE or those that shall be placed on a Site Specific Development Order necessary to promote the GOP's for which the GAE is established or the purposes of this Section:

(1) The extent of development in the area, the amount of undeveloped land in the area, and the size of the various undeveloped parcels in the area. More sparse development militates against a Downtown Core GAE in that area;

(2) The density, intensity, and location of existing and future land uses in the area.

(3) The age and condition of existing development in the area. Blighted areas militate for a GAE;

(4) The proposed land uses of the GAE, and the increased density or intensity and location of such pursuant to the GAE and the effort to balance land uses so as to shorten commuting distances;

(5) The public benefits furthered by the GAE;

(6) The impact on the Major Thoroughfare system, and measures that can be taken to mitigate the impact;

(7) The interjurisdictional impact on the GOP's of other jurisdictions;

(8) The compatibility of the land uses resulting from the GAE with neighboring jurisdictions' land uses;

(9) The feasibility of any redevelopment plans associated with the GAE; and

(10) The boundary proposed in the GAE application. The area established shall be reasonably compact.

(11) The economic feasibility and the economic impact of the GAE; and the economic impact of no Downtown Core GAE.

(12) Efforts by the Local Government to direct development in the proposed Downtown GAE.

(13) Whether parking in and around the GAE is limited so as to promote mass transit.

(14) The Report and Recommendation of the Treasure Coast Regional Planning Council and Florida Department of Transportation, if any, and the report and recommendation, if any, of the Metropolitan Planning Organization.

(15) The impact on the ability to effect other redevelopment or development both inside and outside the GAE.

(16) The amount of Major Thoroughfare capacity necessary for the GAE, and what measures are being taken to add capacity and mitigate the impact of the GAE.

(17) Whether a Community Redevelopment Agency exists for the area, and its plan for redevelopment.

(18) Only areas which have or are proposed to have downtown urban character may be approved as Downtown Core GAE's. In determining whether an area has downtown urban character, the Local Government making the application, and the Board of County Commissioners shall be guided by the following subcriteria indicating downtown urban character:

a) Pattern of streets.

b) Structures built to the front and side property lines.

c) Pedestrian orientation.
   (i) Sidewalks and malls;
   (ii) Pedestrian scale lighting (twelve (12) to sixteen (16) feet);
   (iii) Cross-walks with pedestrian signals:

d) Scale and massing (skyline) and building height to street width;

e) Compact pattern of development, buildings defining public space;

f) Condensed parking facilities;

g) Historic areas, landmarks, blight;

h) Efforts at renewal, redevelopment; and

i) Sense of place and organization.

Each criterion need not be met. The Local Government, LUAB, and County Commission shall make specific findings of fact addressing the above criteria.

Procedural and substantive criteria shall be approved by the Board of County Commissioners. The criteria set forth in this Section shall be reviewed for consistency with the criteria developed by the Board of County Commissioners, and appropriately amended.

L. Action by the LUAB

The LUAB may recommend modification to the boundaries proposed in the application. The LUAB shall recommend the various levels of service for the Links and Major Intersections affected by the GAE. It shall make its recommendation to the Board of County Commissioners by an affirmative vote. It may recommend approval on part of the application and denial on part of the application. It may qualify its recommendation. It may propose conditions of approval. It shall state the factual bases relevant to each criterion, and the policies for its action.

Subsection . Special Project Geographic Exception.

(A) Intent. Various local government comprehensive plans' included GOP's which will involve implementation only through the issuance of Site Specific Development Orders. It is difficult, if not impossible, to identify the geographic areas within which these may occur. Rather, they involve an Applicant proposing a particular development. Examples of these situations are quasi-public uses, and primary, single-tenant major employers and public or private university facilities that would benefit economic diversification. Projects with more than two percent (2%) of gross floor area retail commercial shall not be eligible. The intent of Special Projects geographic exceptions is to diversify the economic base of Palm Beach County.

The size and location of the Project may not meet the Level of Service requirements of this Section. However, a particular Project may further the GOP's of the comprehensive plan(s) and involve a substantial public benefit. Accordingly, these public benefits should be balanced. The GAE process is the means by which to strike these balances.

(B) Area Eligible. Special Project GAE's may be located anywhere in Palm Beach County; however, it shall not be located on barrier islands.

(C) Application. In addition to all of the requirements set by the LUAB, the application shall specifically identify the Project to which it applies. It shall include a traffic evaluation as determined in the preapplication conference. It shall propose the Levels of Service for Test One and Test Two for all Links and Major Intersections within the Project's Radius of Development Influence. It shall specifically identify and quantify the public benefits and GOP's furthered by the proposed Special Project.

(D) Transportation Concurrency Management Area (TCMA). If the proposed Special Project GAE involves setting a lower level of service on State roads, a TCMA designation may be pursued prior to, or concurrent with the application for the Special Project GAE.

(E) Preapplication conference. The applying Local Government shall contact the Director prior to making application notifying the LUAB of the Local Government's intent to make application under this Section 7.9.(I) M and, if applicable for a GAE CRALLS, Section 7.9.(I) K. A preapplication conference shall be set by the Palm Beach County staff prior to accepting an application. The conference shall include representatives of the: (1) Local Government making application; (2) County including the Planning Division and County Engineering; (3) Florida Department of Transportation, District IV; (4) Treasure Coast Regional Planning Council; and (5) Metropolitan Planning Organization. The purpose of the preapplication conference shall be to identify the issues for consideration, the likely impact of the proposal, the assumptions and changes made in socio-economic data (including justification for such), the application requirements (including which should be waived, if any), and to coordinate review. The level of data and study needed for existing and future land use, and the proposed GAE, to review the proposed application shall be determined in the preapplication conference. The decision shall be made by the County Engineer based upon the magnitude of the proposed GAE, the difference from existing and future land use, the extent of the proposed lowering of the level of service, the amount and quality of existing data and planning, the size of the area affected, the extent to which the affected area is built out, and the Major Thoroughfare Links and Major Intersections involved (whether they are or will be collectors, minor arterials, or principle arterials).

(F) Who May Apply. Only the local government within which the proposed Special Project GAE is located may apply.

(G) Sufficiency/Review/Recommendation. The review agencies shall have sixty (60) days within which to review the application for sufficiency and the Director shall notify the Local Government as to the specific deficiencies. The Local Government shall provide the additional information within sixty (60) days or notify the Director that it is electing to withdraw the application. The application shall be reviewed by all agencies within sixty (60) days of the determination that the application is sufficient. The LUAB shall make its recommendation to the Board of County Commissioners. The Board of County Commissioners shall take action on the application in accordance with Florida Statutes Chapter 16 and Florida Administrative Code Rule 9J-5.

(H) Areawide Traffic Evaluation. The application shall include an areawide traffic evaluation prepared in accordance with generally accepted traffic engineering principles. It shall explain all assumptions and, for the portion involving the County Engineer's use of the Model (if necessary), what changes were made to socio-economic data and justification for such. It shall evaluate the impact of all development in the area on all Links where the impact is one percent (1%) or greater of LOS D, Average Annual Daily Traffic, and on the Major Intersections of such Links.

(I) Criteria. The LUAB and the Board of County Commissioners shall be guided by the following criteria in: setting the Levels of Service for Links and Major Intersections; and placing any conditions on the Local Government for the GAE or those that shall be placed on a Site Specific Development Order necessary to promote the GOP's for which the GAE is established or the purposes of this Section:

(1) The public benefit and GOP's furthered by the Project.
(2) The economic impact of the Project.
(3) The size of the project.
(4) Whether the Project is a supporting land use to a public facility.
(5) Whether the land use is a quasi-public facility.
(6) Whether there is a practicable way to provide the public benefit without the special project geographic exception.

Each criterion need not be met. The Local Government, LUAB, and County Commission shall make specific findings of fact addressing the above criteria.

(J) Special Considerations. The application must clearly demonstrate a public purpose. An increased tax base shall not be considered as a criterion. The Special Project GAE shall be limited to a single Project. In the case of commercial/office uses, only primary, single tenant major employers shall be eligible. Conditions which run with the land shall be placed on the approval, and recorded in the Official Records of the Clerk of the Court in and for Palm Beach County to ensure that use remains consistent with the approval and this Section.

(K) Action by the LUAB.

(1) The LUAB shall make its recommendation to the Board of County Commissioners by an affirmative vote. The LUAB shall recommend the various levels of service for the Links, and Major Intersections affected by the GAE. It may recommend approval on part of the application and denial on part of the application. It may qualify its recommendation. It may propose conditions of approval. It shall state the factual bases relevant to each criterion and the policies for its action.

(L) Commencement of Construction of a Special Project. GAE shall commence within two (2) years of its approval by the County Commission, or the Special Project GAE shall be of no further force and effect without further action of the County Commission.

Subsection 4. Community Redevelopment Geographic Exceptions.

(A) Intent. Community Redevelopment geographic exceptions promote revitalization and rehabilitation of deteriorating commercial and residential communities which have been determined to have slum and blighted conditions, as defined in Section 163.360, Florida Statutes; preserve viable, existing affordable housing; provide opportunity for development and redevelopment; and encourage and enhance private investment for redevelopment and neighborhood stability. Some comprehensive plans provide for a level of development in these blighted areas that competes with the goal or objective of an efficient Major Thoroughfare system.

Recognizing these various and often competing GOP's, the Community Redevelopment geographic exception process is the mechanism that shall be utilized to balance these GOP's.

(B) Eligibility. Community Redevelopment areas which are identified within the GOP's of a Local Government's Comprehensive plan and have an approved Redevelopment Plan adopted pursuant to Section 163.360, Florida Statutes which includes a Determination of Necessity in accordance with Section 163.355, Florida Statutes as a "Slum and Blighted" Community Redevelopment Area are eligible to make an application under this Subsection 4.

(C) Application. In addition to all other requirements set by the Board of County Commissioners, the application shall specifically identify the area to which it applies and the Links and Major Intersections affected. It shall propose the Levels of Service for Test One and Test Two for all affected Links and Major Intersections.

(D) Preapplication Conference. The applying Local Government shall contact the Director prior to making application notifying the LUAB of the Local Government's intent to make application under this Section 7.9.(I) L and, if applicable for a GAE CRALLS, Section 7.9.(I) K. A preapplication conference shall be set by the Palm Beach County staff prior to accepting an application. The conference shall include representatives of the: (1) Local Government making application; (2) County including the Planning Division and County Engineering; (3) Florida Department of Transportation, District IV; (4) Treasure Coast Regional Planning Council; and (5) Metropolitan Planning Organization. The purpose of the preapplication conference shall be to identify the issues for consideration, the likely impact of the proposal, the application requirements (including which should be waived, if any), and to coordinate review. The level of data and study needed for existing and future land use, and the proposed GAE, to review the proposed application shall be determined in the preapplication conference. The decision shall be made by the County Engineer based upon the magnitude of the proposed GAE, the difference from existing and future land use, the extent of the proposed lowering of the level of service, the amount and quality of existing data and planning, the size of the area affected, the extent to which the affected area is built out, and the Major Thoroughfare Links and Major Intersections involved (whether they are or will be collectors, minor arterials, or principle arterials).

E. Who May Apply/Application Period.

(1) Only the Local Government within which the proposed Community Redevelopment GAE is located may apply.

(2) Application Period - Applications shall be accepted between January 1 and June 1 of odd years, beginning 1993.

F. Identification In Local Government's Plan.

If required by the Department of Community Affairs, the Community Redevelopment GAE must be specifically identified as such in the Local Government's comprehensive plan.

G. Areawide Traffic Evaluation.

The application shall include areawide traffic evaluation prepared in accordance with generally accepted traffic engineering principles. It shall explain all assumptions and, for the portion involving the County Engineer's use of the Model (if necessary), what changes were made to the socio-economic data and justification for such. It shall evaluate the impact of all development in the Community Redevelopment GAE on all Links where the impact is three percent (3%) or greater of LOS D, Average Annual Daily Traffic, and on the Major Intersections of such Links.

H. Transportation Concurrency Management Area (TCMA).

If the proposed Community Redevelopment GAE involves setting a lower level of service on State roads, TCMA designation may be pursued prior to or concurrent with the application for the Community Redevelopment GAE.

I. Sufficiency/Review/Recommendation.

The review agencies shall have sixty (60) days within which to review the application for sufficiency and the Director shall notify the Local Government as to the specific deficiencies. The Local Government shall provide the additional information within sixty (60) days or notify the Director that it is electing to withdraw the application. The application shall be reviewed by all agencies within sixty (60) days of the determination that the application is sufficient. The LUAB shall make its recommendation to the Board of County Commissioners. The Board of County Commissioners shall take action on the application in accordance with Florida Statutes Chapter 163 and Florida Administrative Code Rule 9J-5.

J. Criteria.

The LUAB and Board of County Commissioners shall be guided by the following criteria in: (1) establishing the boundaries of the Community Redevelopment GAE; (2) setting the LOS for Links and Major Intersections; and (3) placing any conditions on the Local Government or Community Redevelopment Agency for the GAE or those that shall be placed on a Site Specific Development Order necessary to promote the GOP's for which the GAE is established or the purposes of this Section:

(1) The development and approval by the Local Government of a Redevelopment Plan for the area designating future land uses, density and intensity of the area;

(2) The age and condition of existing development in the area. The greater the blight, the more such militates for a Community Redevelopment GAE.

(3) The proposed land use of the GAE, and the increased density or intensity and location of such pursuant to the GAE;

(4) The public benefits furthered by the GAE;

(5) The impact on the Major Thoroughfare system, and measures that can be taken to mitigate the impact;

(6) The interjurisdictional impact on the GOP's of other jurisdictions;

(7) The compatibility of the land uses resulting from the GAE with neighboring jurisdictions' land uses;

(8) The feasibility of any Master Plans associated with the GAE;

(9) The boundary drawn as a result of the application of the boundary proposed in the GAE application. The area established shall be reasonably compact.

(10) The economic feasibility and the economic impact of the GAE; and the economic impact of no Community Redevelopment GAE;

(11) Efforts by the Local Government to direct development in the proposed Community Redevelopment GAE.

(12) The Report and recommendation of the Treasure Coast Regional Planning Council and Florida Department of Transportation, if any and the report and recommendation of the Metropolitan Planning Organization;

(13) The impact on the ability to effect other redevelopment or development both inside and outside the GAE;

(14) The amount of Major Thoroughfare capacity necessary for the GAE, and what measures could be taken to add capacity and mitigate the impact of the GAE.

Each criterion need not be met. The Local Government, LUAB, and County Commission shall make specific findings of fact addressing the above criteria.

Procedural and substantive criteria shall be approved by the Board of County Commissioners. The criteria set forth in this Section shall be reviewed for consistency with the criteria developed by the Board of County Commissioners, and appropriately amended.

K. Action By LUAB.

The LUAB may recommend modification to the boundaries proposed in the application. The LUAB shall recommend the various levels of service for the Links and Major Intersections affected by the GAE. It shall make its recommendation to the Board of County Commissioners by affirmative vote. It may recommend approval on part of the application. It may qualify its recommendation. It may propose conditions of approval. It shall state the factual bases relevant to each criterion, and the policies for its actions.

SECTION 7.9.(II) FIVE YEAR ROAD PROGRAM.

SECTION 7.9.(II) A - INTENT.

The Board of County Commissioners of Palm Beach County, Florida, finds that the 1990 Traffic Performance Code adopted by Section 7.9.(I) of this Ordinance is premised on the County's commitment to adhere to and implement the adopted Palm Beach County Five-Year Program Ordinance [referred to as "Five-Year Road Program" in this Section 7.9(II)] and the 1989 Palm Beach County Comprehensive Plan, as amended, [referred to as "Plan in this Section 7.9.(II)]. The County's failure to maintain its commitment to adhere to and implement its adopted Five-Year Road program as set forth in this Section 7.9 (II) shall result in a review and reconsideration of the adopted level of service contained in Section 7.9 (I) and in the Plan.

SECTION 7.9.(II) B - DESCRIPTION OF FIVE-YEAR ROAD PROGRAM.

The Five-Year Road Program was adopted by the Board of County Commissioners of Palm Beach County by Ordinance No. 85-40. In that ordinance, as amended, and in the Plan, the County adopted a reasonably attainable program of roadway construction for a five year period and matched the construction of projects with projected funding. Ordinance No. 85-40, as amended, further provides that prior to December of each year, the Commission shall consider the Ordinance to modify the list of projects to create a viable list of funded projects for the succeeding five years.

The modification to the Five-Year Road Program shall continue to include, at a minimum, a description of the Road project, the type of road construction required, and the amount of money to be spent each fiscal year for plan preparation, right-of-way acquisition, and actual construction.

SECTION 7.9.(II) C - MONITORING OF COUNTY'S ADHERENCE TO AND IMPLEMENTATION OF THE ADOPTED FIVE-YEAR ROAD PROGRAM.

Subsection 1. Generally.

The County's adherence to and the effectiveness of its implementation of the adopted Five-Year Road Program shall be monitored by the Independent Five-Year Road Program Oversight and Advisory Council. (Referred to as "Oversight and Advisory Council").

Subsection 2. Independent Five-Year Road Program Oversight and Advisory Council.

(A) Council - An Independent Five-Year Road Program Oversight and Advisory Council is hereby created and established, consisting of nine (9) members. One member shall be selected from each of the six (6) disciplines listed below so that all the disciplines are represented, and appointed by the Board of County Commissioners of Palm Beach County:

(1) construction management
(2) civil engineering
(3) operations research/systems analysis
(4) finance/certified public accounting
(5) economist
(6) legal or general business

Three members shall be selected from the general public: one from each of the following geographic areas:

(1) North Palm Beach County - bounded on the west by State Road 7 and a line being the projection north of the centerline of State Road 7; bounded on the south by Southern Boulevard.

(2) South Palm Beach County - bounded on the west by State Road 7 and on the north by Southern Boulevard.

(3) West Palm Beach County - bounded on the east by State Road 7.

The members shall be appointed at large by a majority vote of the County Commissioners, and shall be County residents. They shall serve (2) year terms; provided that the initial term only of the members from construction management, civil engineering, operations research/systems analysis, finance/certified public accounting, and North Palm Beach County shall be one (1) year. Any member missing three (3) consecutive meetings may be replaced by the Board of County Commissioners, with the new appointment filling the unexpired term of the member replaced.

(B) Purpose and Functions:

The purpose of the Oversight and Advisory Council is to function both as a resource for both the County Engineer and the County Commission in matters of the Five-Year Road Program implementation; to detect potential problems with County road building programs; to recommend to the County Commission suggested corrective actions relating to any such problems so identified; to strengthen the confidence of the public and industry of Palm Beach County in the road transportation improvement program; to generally monitor whether there is adherence to the adopted level of service standards and the Five-Year Road Program schedule.

(C) Activities:

To implement the functions stated in paragraph (B) above, the members of the Oversight and Advisory Council are directed:

(1) To aid in the review of the policies, procedures, and programs for use by the County Engineer for implementation of the Five-Year Road Program.

(2) To monitor whether the preparation of plans for road and bridge construction is on schedule.

(3) To monitor whether the preparation of plans for right-of-way acquisitions and abandonments is on schedule.

(4) To monitor the progress of road construction.

(5) To monitor the collection and expenditure of all road reviews, including impact fees.

(6) To monitor whether there is adherence to the adopted levels of service for the major thoroughfare system and the Five Year Road Program Schedule.

(7) To monitor the impact of this Ordinance on the level of development activity by comparison to other communities.

(8) To review and recommend funding sources, mechanisms, and mixes of funding to improve the major thoroughfare system.

(9) To perform such other duties as the County Commission shall direct; provided that the Oversight and Advisory Council shall not be involved in recommending changes to, or the adoption of, the annual Five Year Road Program or the management of the Engineering Department.

(D) Administration

(1) The Office of the County Administrator shall provide such administrative staff and assistance as is required for the Council to perform its duties and functions.

(2) All County departmental directors shall cooperate with the Council to the fullest extent.

(E) Reports:

(1) The County Engineer shall submit a report by January 10, April 10, July 10 and October 10 each year to the Oversight and Advisory Council detailing the status of the County's implementation of its adopted Five-Year Road Program. This report shall contain a detailed report on the status of each project in the Five-Year Road Program, including the proposed commencement and completion dates of all programmed activities within each quarter of each fiscal year and the likelihood of meeting those dates.

(2) The Oversight and Advisory Council shall meet at least quarterly after receipt of the report of the County Engineer and shall submit a report by May 30, and November 30 of each year to the County Commission detailing its findings on the County's implementation of the adopted Five-Year Road Program, the general effectiveness of the County's road building efforts, and the other tasks contained in Subsection 2(C). The Oversight and Advisory Council may submit other reports to the County Commission regarding actual as opposed to planned performance and shall respond to other requests from the County Commission.

Subsection . Review of the Independent Five-Year Road Program Oversight and Advisory Council.

The need for, and tasks of, the Oversight and Advisory Council shall be reviewed approximately June 1, 1992 and every two (2) years thereafter.

SECTION 7.9.(II) D - MODIFICATION OF FIVE-YEAR ROAD PROGRAM.

Subsection 1. Semi-annual Modification of Five-Year Road Program.

The deletion of construction projects from the Five-Year Road Program may be done no more frequently than twice a year. For purposes of this Section 7.9 (II), "deletion of a construction project" shall mean the elimination of the construction project, the failure to let a road construction contract, the removal of or failure to establish funding of the construction project, the material reduction in the scope of work or funding (as it affects the construction project), or the postponement of the construction project in the Five-Year Road Program for more than two years beyond the year the construction was originally programmed in the 1988-92 Five-Year Road Program or in the Five-Year Road Program in which the construction was first added after 1987. It does not include delays associated with right-of-way acquisition as a result of judicial decision, redesign after the contract has been let, construction, or other delays not under the control of the County.

Subsection 2. Finding Required Prior to Deleting Projects in the Adopted Five-Year Road Program.

Prior to approving the deletion of any construction project from the County's Five-Year Road Program, the County Commission must find; 1) that the deletion of the construction project will not result in any link or intersection on the road network operating at greater than the Adopted Level of Service as defined in this Ordinance if such link would not have operated at greater than the Adopted Level of Service as defined in this Ordinance had the project been constructed as originally programmed in the adopted Five-Year Road Program; and 2) that no project which was approved and phased based upon such ASSURED CONSTRUCTION would be denied BUILDING PERMITS because of the deletion of the construction. If both findings can be made, then the construction project may be eliminated by a majority vote except, if the project is in the current fiscal year, in which case a majority plus one vote is required. If only the second (2nd) finding can be made, then a project not in the current fiscal year could be deleted by a majority plus one vote. However, in no case may a project be deleted when the second (2nd) finding cannot be made.

SECTION 7.9.(II) E - STANDARDS REQUIRING FINDING THAT COUNTY IS ADHERING TO AND IMPLEMENTING IT'S ADOPTED FIVE-YEAR ROAD PROGRAM.

Concurrent with the adoption of the annual Five-Year Road Program, the Board of County Commissioners shall determine whether the County has adhered to and implemented its Five-Year Road Program. In order to make the determination that the County had adhered to and implemented its adopted Five-Year Road Program, the County Commission must find the following based upon substantial competent evidence:

(A) Funding - The amount of funding of the current fiscal year of the Five-Year Road Program is, at a minimum, as contemplated in the Plan and the Five-Year Road Program.

(B) New Fifth Year - The new fifth year being added to the Five-Year Road Program with projects added to the Five-Year Road Program at a rate contemplated in the Plan.

(C) Projects on Schedule - Fewer than twenty percentum (20%) of the programmed road construction projects (on a line item basis) from the preceding fiscal year over which the County has control are more than twelve (12) months behind schedule; and

SECTION 7.9.(II) F - EFFECT OF FAILURE OF COUNTY TO ADHERE TO AND IMPLEMENT IT'S ADOPTED FIVE-YEAR ROAD PROGRAM.

If the County Commission does not continue to fund the Five-Year Road Program in accordance with the Plan, or does not continue to add projects to the Five-Year Road Program at a rate contemplated in the Plan, as corrected, updated, or modified as permissible in F.S. §163.3177(3)(b); or construction projects consisting of twenty (20) percent or more of the programmed construction projects (on a line item basis) from the preceding fiscal year over which the County has control are more than twelve (12) months behind schedule as determined after the effective date of this Section, above, the Board of County Commissioners shall review the adopted level of service to determine whether it is realistic, adequate, and financially feasible.

SECTION 7.9.(II) G - METHOD OF PRIORITIZING THOROUGHFARE IMPROVEMENTS.

County shall undertake data collection and review of such regarding Major Intersection capacity and Peak Hour Link capacity, along with AADT capacity. It shall use this information in programming Major Thoroughfare system improvements in the Five-Year Road Program.

The objective shall be to effectively spend available funds so as to maximize capacity, balancing the amount of capacity added, the cost of improvements, the time the improvements will be utilized, and the "expandability" of those improvements to the ultimate section of road. Volume to AADT capacity ratios shall be the preliminary criterion for prioritizing funding of improvements. Due consideration shall be given to the amount of area opened up for development as a result of the various improvements. Deferral or elimination of Link improvements made unnecessary as a result of: (1) other Major Thoroughfare system improvements, such as intersection improvements; or (2) refined capacity analysis, shall not be considered the deletion of a road improvement, unless the deletion is of a project scheduled for construction of the first year of the Five-Year Road Program or was scheduled for construction in the first year of a previous Five-Year Road Program. When evaluating whether a particular improvement should be deleted from the Five-Year Road Improvement Program, due consideration shall be given to previous reliance of improvements scheduled in the Five-Year Road Program.

In addition, the analysis shall identify improvements to relieve traffic demands on all deficient facilities which are not included in the Five-Year Road Program. The County shall estimate traffic volumes to be on the roadway network at the end of the last year in the Five-Year Road Program and determine what additional improvements will be needed to meet those future traffic demands. These plans will be developed initially in 1991 and presented to the Board of County Commissioners annually in conjunction with the review and approval of the Five-Year Road Program, beginning in 1992. Consideration will be given to staging improvements by constructing intersection improvements or other spot roadway improvements such that maximum roadway system and funding efficiency are achieved. These improvements shall be included in the analysis but will not be required to be identified for construction in a certain year.

SEC. 7.10 ON-SITE SEWAGE DISPOSAL SYSTEMS -- (ENVIRONMENTAL CONTROL RULE I)

A. **Purpose and intent.** The purpose and intent of this section is to establish minimum standards for on-site sewage disposal systems used for treatment and disposal of domestic sewage flows of five thousand (5,000) gallons per day and less.

B. **Applicability.** The regulations of this section shall apply throughout the total area of Palm Beach County. No on-site sewage disposal system shall be installed, modified, repaired or used without first obtaining a permit or required approval from the PBCPHU pursuant to this section. 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 on-site sewage disposal system unless the owner or builder has received a permit for such system from the PBCPHU.

C. **Adoption of Chapter 10D-6, F.A.C.** Chapter 10D-6, F.A.C., and all amendments thereto, are hereby incorporated into this section. In the event of a conflict between the provisions of Chapter 10D-6, F.A.C. and this section, the more restrictive provision shall apply.

D. **General provisions.**

1. **Approved systems required.** Buildings used or intended for human occupancy, employment or service to the public and locations where persons congregate shall provide toilets connected to an approved sewage waste disposal system. Also, property or locations where persons congregate and are employed, or where property is used by the public for temporary and short periods of duration, such as construction sites, fairs, carnivals, revivals, field locations of agricultural workers, encampments or other use, shall be provided with portable toilets or other approved toilet facilities. The number of toilet facilities to be provided shall be in accordance with the local plumbing code, other applicable local regulations and the F.A.C. No building or premises shall be occupied, sub-let or leased unless provided with an approved sewage disposal system.

2. **Containment of wastes.** Sewage wastes and effluents from an on-site sewage disposal system shall not be allowed to surface onto the ground and shall not be discharged into or permitted to enter streams, surface waters, underground aquifers, ditches or drainage structures.

3. **Central collection of waste.** Total waste flow from any one (1) establishment, whether a single structure or group of structures, shall be centrally collected for treatment and disposal.

4. **Industrial and commercial wastewater.** Wastewater generated by industrial or commercial establishments shall not be discharged into an on-site sewage disposal system if the characteristics of the waste are such that it would cause malfunctioning of the on-site sewage disposal system and/or contamination of the ground water. Wastewater from such establishments shall be treated and disposed of in accordance with FDER requirements.

5. **FDER approval.** Treatment and disposal of the wastewater from a building or establishment shall be in compliance with FDER standards and rules when any one (1) of the following conditions exist:

   a. The volume of domestic sewage from an establishment exceeds five thousand (5,000) gallons per day. Sec. 7.10.G.1 shall be used for determining the total daily sewage flow from an establishment located on one (1) or more parcels of land.

   b. Sewage or wastewater contains industrial, toxic or hazardous chemical waste.

   c. The district designation of an area is industrial or manufacturing use, or its equivalent, and the use of the system may be for disposing of wastes which are not domestic wastes.

6. **Existing systems.** Any existing and previously approved system which remains in satisfactory operating condition shall remain valid for use under the terms of this section, and the environmental control rule and permit under which it was approved. If the use of a building is changed or if additions or alterations to a building are made which will increase sewage flow or change sewage characteristics, any on-site sewage disposal system serving such building shall be upgraded to comply with the provisions and requirements of this section.

7. **Modification of existing systems.** Any on-site sewage disposal system used for disposal of domestic sewage which is designed, constructed, installed, or modified after March 14, 1988 shall conform to the minimum requirements and provisions of this section. Should an emergency or epidemic occur, the PBCPHU may approve temporary systems for waste disposal which may differ from standards set forth in this section, as long as the PBCPHU supervises the operation of the temporary system.

8. **Discontinuance.** Any existing on-site sewage disposal system installed under previous rules and regulations which becomes non-conforming with this Section for conditions or purposes as approved, and which has not been placed in use for a period of one (1) year or more, shall be deemed unapproved and its use for such purpose prohibited.

9. **Abandonment.** Whenever an approved sanitary sewer is made available under the conditions set forth in Sec. 7.10.E.1.a (sanitary sewer system available), any on-site sewage disposal system shall be abandoned and the sewage wastes from the residences or building discharged to the sanitary sewer within ninety (90) calendar days thereafter. When use of an on-site sewage disposal system is discontinued, it shall be abandoned and its further use for any purpose prohibited. An abandoned septic tank shall be (a) pumped out, (b) the bottom suitably opened or ruptured so as to prevent the tank from retaining water, and (c) filled with clean sand or other suitable material, the actions being taken in the order listed.

10. **Responsibility for inspection.** It shall be the duty of the PBCPHU to conduct such technical inspections as are reasonable and necessary to determine compliance with the provisions of this section.

E. **Prohibited activities.**

1. **Prohibitions on the use of on-site systems.** An on-site sewage disposal system shall not be permitted in any of the following instances.

a. **Sanitary sewer system available.** On-site sewage disposal systems shall not be permitted where an existing sanitary sewer is available. A municipal or investor-owned sewerage system shall be deemed available for connection if the following conditions exist:

(1) The system is not under a FDER moratorium, and the sewage system has adequate hydraulic capacity to accept the quantity of sewage to be generated by the proposed establishment; and the existing sewer line is within the following distance from the property:

(a) For estimated sewage flows of six hundred (600) or less gallons per day, the sewage system shall be considered available if a sewer line exists in a public easement or right-of-way which abuts the property or is within one hundred (100) feet of the property and if gravity flow can be maintained from the building drain to the sewer line.

(b) For estimated sewage flows greater than six hundred (600) gallons per day to twelve hundred (1,200) gallons per day, if a sewer line, gravity or force main exists in a public easement or right-of-way which is within one hundred (100) feet of the property.

(c) For estimated sewage flows greater than twelve hundred (1,200) gallons per day to twenty-five hundred (2,500) gallons per day, if a sewer line, gravity or force main exists in a public easement or right of way which is within five hundred (500) feet of the property.

(d) For estimated sewage flows greater than twenty-five hundred (2,500) gallons per day to five thousand (5,000) gallons per day, if a sewer line, gravity or force main exists in a public easement or right of way which is within one thousand (1,000) feet of the property.

b. **Subject to frequent flooding.** On-site sewage disposal systems shall not be permitted where the property is located in an area that is subject to frequent flooding, or where the approved drainage has not been constructed in accordance with the requirements of the South Florida Water Management district and/or the DEPW.

c. **Unapproved drainage features.** On-site sewage disposal systems shall not be permitted for lots in a subdivision where the approved drainage has not been constructed in accordance with the requirements of the SFWMD and/or the DEPW.

d. **Treatment and disposal of industrial wastes.** On-site sewage disposal systems shall not be permitted for treatment and disposal of industrial wastes as defined in this section.

e. **Commercial food establishments.** On-site sewage disposal systems shall not be permitted for commercial establishments where food is processed, handled, prepared or served. This restriction does not apply to retail or prepackaged food stores and to convenience stores where food service is limited to coffee, soft drinks and hot dogs.

2. Other prohibited activities.

a. **Privies.** It is prohibited for any person to construct, keep, use or maintain a privy from which human waste is deposited on the surface of the ground or over waters of the State.

b. **Sale and installation of unapproved systems.** No person shall manufacture, sell or install an on-site sewage disposal system unless in compliance with the requirements of this section.

c. **Drainage into cesspools or dry wells.** It is prohibited to drain sewage wastes or septic tank effluent into cesspools or dry wells as means of disposal.

d. **Organic chemical solvents.** Organic chemical solvents shall not be advertised, sold or used in the county for the purpose of degreasing or declogging on-site sewage disposal systems.

F. Permits and approvals.

1. **General.** An on-site sewage disposal system shall not be installed, modified or repaired until a valid permit has been obtained from the PBCPHU.

   a. **Expiration.** Permits issued for new construction shall expire after one (1) calendar year from the date of issuance if the system has not been installed. However, if building construction has commenced, the system construction permit shall be extended ninety (90) calendar days beyond the one (1) year expiration date.

   b. **Conditions.** If the PBCPHU determines that the disposal of certain wastes into the on-site sewage disposal system may interfere with the proper functioning of the system, the PBCPHU may specify on the permit those conditions that are appropriate for the proper functioning of the system. Upon request of the PBCPHU, the permit and conditions shall be recorded in the public records of Palm Beach County at the permittee's expense.

   c. **Inspections.** The on-site sewage disposal system shall not be used or covered with earth before it has passed an inspection by the PBCPHU and a notice of approval has been issued. Should the installer or general contractor fail to notify the PBCPHU prior to covering the system, the PBCPHU shall require that the system be uncovered for inspection. If the system is approved, the PBCPHU shall issue a notice of approval to the owner and, when appropriate, to the Building Department. A building or structure shall not be occupied until a notice of approval has been issued by the PBCPHU.

2. **Applications for a single lot or parcel.** The application and supporting data required for approval of an on-site sewage disposal system for a single lot or parcel of property shall be submitted to the PBCPHU by the owner or his authorized representative.

   a. **Submittal requirements.** The application form shall be submitted together with the following:

      (1) A site plan with the property drawn to scale, showing the following:

         (a) Property boundaries with dimensions;
         (b) Easements;
         (c) Location of all existing and proposed buildings;
         (d) Location of all wells;
         (e) Location and layout of treatment receptacle and drainfield;
         (f) Unobstructed area available for the installation of the on-site sewage disposal system;
         (g) Potable water lines;
         (h) Driveways;
         (i) Parking areas;
         (j) Walkways;

(k) Stormwater drainage system;
(l) Surface water such as ponds, lakes, streams, ditches, canals or wet areas;
(m) Location and elevation of percolation test and soil profile;
(n) Location of wells, on-site sewage disposal facilities or other pertinent features on adjacent properties if the features are within two hundred (200) feet of the applicant's lot; and
(o) The presence of any marsh area, mangroves, cypress and wetland vegetation on the property or on adjacent properties.

(2) In cases where there is a drastic variation in the elevation of the lot, a topographical map of the property must be submitted.

(3) At least one (2) soil profile delineating the textural classification of the native soil within the soil absorption area to a minimum depth of six (6) feet in accordance with USDA Soil Classification Methodology. The PBCPHU may require more than two (2) soil profile on isolated lots where a subdivision approval has not been granted as required under Sec. 7.10.F.3, or where marginal soils, sloping terrain or location problems are anticipated.

(4) The results of at least one (1) percolation test conducted in the area of the proposed drainfield. When the soil conditions in the general area of the lot are highly variable, a minimum of three (3) percolation tests that are uniformly spaced shall be conducted. A percolation test is generally not required for a single-family residence, but the PBCPHU may request that the test be performed when the soils are moderately or severely limited.

(5) The existing water table elevation and the estimated wettest season water table elevation.

b. **Responsibility for information.** The owner shall be held responsible for all information supplied to the PBCPHU. The application and supporting data serve as the basis for the issuance of a construction permit. In the event of a change in any material fact given in the application which served as a basis for issuing a construction permit, the owner shall immediately file an amended application detailing such changed conditions. If the new conditions are in compliance with the standards in this section, the construction permit shall be amended. If the new conditions are not in compliance with the standards of this section, the permit shall be revoked.

c. **Preparation of information.** The supporting data must be prepared by an engineer registered in the State of Florida. When fill soils are used, they shall be classified by a certified soils engineering testing laboratory registered in the State of Florida or registered professional engineer trained in soil science, using USDA Classification Methodology.

d. Documentation of exemptions. If the application is for a lot that is exempt under Sec. 7.10.F.4.l, documentation shall be submitted to substantiate the existence of the lot prior to January 1, 1972. Documentation shall be in the form of:

(1) A survey, map, plat or drawing prepared by a land surveyor licensed in the State of Florida;

(2) A survey, map, plat or drawing registered with the Department of Business Regulation, Division of Land Sales;

(3) A property tax receipt;

(4) A deed; or

(5) An agreement for deed.

3. Applications for subdivisions. The application and supporting data required for approval of the use of on-site sewage disposal systems for a subdivision shall be submitted to the PBCPHU by the owner or his authorized representative.

a. Submittal requirements. The supporting data must be prepared by a professional engineer registered in the State of Florida and shall include:

(1) A plan of the subdivision clearly drawn to scale, showing lot and block arrangements, lot dimensions with all lots numbered and net area of each lot;

(2) A topographical map with contour interval to indicate surface configurations, including slopes, streams, or water courses, bodies of water, low, wet, or marshy land, and lots on which any fill is to be made;

(3) A general site location map for reference identification of the area;

(4) The proposed drainage plans certified by the preparer as being in compliance with existing district drainage plans as approved by the local drainage authority and the SFWMD;

(5) SFWMD staff report and permit for the proposed drainage system;

(6) The results of a representative number of percolation tests for at least ten (10) percent of the number of lots;

(7) The natural soil profile delineating soil classification to a depth of six (6) feet for a representative number of test sites for at least ten (10) percent of the number of lots; the classification shall be in accordance with the USDA Soil Classification Methodology and conducted by a certified soils testing laboratory registered in the State of Florida;

(8) Water table elevations as existing and for the wettest season, based on N.O.S. or M.S.L. datum;

(9) All dedicated right-of-way or recorded easements proposed for use in the installation of on-site sewage disposal or water system; and

(10) If private wells are to be used, evidence that the groundwater is of satisfactory quality and is not threatened by a source of contamination.

4. **Approval standards.** In considering applications for construction of on-site sewage disposal systems, the PBCPHU shall be governed by the following standards.

a. **Lot area.** The lot, unless exempt under Sec. 7.10.F.4.l, shall have a minimum net usable land area of:

(1) one-half (½) acre if the water supply is by means of a community well; or

(2) One (1) acre if the water supply is by means of an on-site well.

b. **Drainfield invert.** The drainfield invert shall be a minimum of thirty (30) inches above the wettest season water table elevation.

c. **Location and setbacks.**

(1) With respect to groundwater movement, system locations shall be downstream from water supply wells when practical. Systems shall be placed no closer than the minimum distances indicated for the following, except for lots addressed under Sec. 7.10.E.1.a.(1)(a), 10.F.4.n:

(a) Seventy-five (75) feet from a private well, as defined in Article 3;

(b) One hundred (100) feet from a non-community well for an establishment having a projected sewage flow of not more than two thousand (2,000) gallons per day or a semi-public well, as defined in Article 3;

(c) Two hundred (200) feet from a community well or from a non-community well, as defined in Article 3, for an establishment having a projected sewage flow of more than two thousand (2,000) gallons per day; and

(d) Fifty (50) feet from a non-potable water well, as defined in Article 3.

(2) Systems shall not be located under buildings or within five (5) feet of building foundations, including pilings for elevated structures, or within five (5) feet of property lines except where property lines abut utility easements which do not contain underground utilities, or where recorded easements provide for the installation of systems for service to more than one (1) lot or property owner. The system shall not be located within ten (10) feet of potable water lines unless such lines are encased in at least six (6) inches of concrete or lines are placed within a sleeve of similar material pipe to a distance of at least ten (10) feet from any part of the drainfield.

(3) On-site sewage disposal systems shall be located not less than seventy-five (75) feet from the high water line of lakes, streams, canals, or other waters, except in case of lots addressed under Secs. 7.10.F.4.l and 7.10.E.1.a.(1)(a), 10.F.4.n. This requirement also applies to the design high water level of drainage structures and storm water retention areas serving more than two (2) lots. This requirement does not apply to swales which are designed to contain water for less than twenty-four (24) hours after a rainfall event. Systems shall be located a minimum of fifteen (15) feet from design high water level of normally dry individual lot storm water retention areas and swales.

(4) The site of the installation and the additional required unobstructed land shall not be subject to saturation from sources such as artificial drainage of ground surfaces, driveways, roads or roofs.

d. **Drainfields.** Suitable, unobstructed land shall be available for the installation and proper functioning of drainfields. The minimum unobstructed area shall be:

(1) At least two (2) times as large as the drainfield area required by Sec. 7.10.G;

(2) Contiguous to the drainfield; and

(3) In addition to the setbacks required in Secs. 7.10.F.4.c.(1), (2) and (3) above.

e. **Placement in fill.** Standard subsurface systems shall not be installed in fill material unless such fill has been allowed to settle for a period of at least six (6) months, or has been compacted to a density comparable to the surrounding natural soil.

f. **Fine soil.** To prevent soil smear and excessive soil compaction, drainfields should not be installed while a fine texture soil is wet above the soil's plastic limit. Soils with textures finer than sand, loamy sand and sandy loam are considered fine texture soils.

g. **Lot elevation.** The final lot elevation at the site of the proposed system installation and the additional unobstructed land shall not be subject to frequent flooding. The drainfield shall not be subject to flooding based on ten (10) year flood elevations. Flood elevations may be obtained from the U.S. Department of Agriculture Soil Conservation Service, SFWMD or the Federal Emergency Management Agency.

h. **Effective soil depths.** The effective soil depth throughout the drainfield installation area shall extend forty-two (42) inches or more below the bottom of the drainfield.

i. **Sewage loading capacity.** The maximum sewage loading (gallons/acre/day) shall be based on the following standards, except in the case of lots addressed under Secs. 7.10.F.4.m and 7.10.E.1.a.(1)(a), 10.F.4.n:

(1) Twenty-five hundred (2,500) gallons per acre per day for lots served by a community well;

(2) Fifteen hundred (1,500) gallons per acre per day for lots served by on-site wells.

Contiguous unpaved and non-compacted road right-of-ways, and easements with no subsurface obstructions that would affect the operation of drainfield systems, shall be included in total lot size calculations. Where an unobstructed easement is contiguous to two (2) or more lots, each lot shall receive its pro rata share of the area contained in the easement. Streams, lakes, drainage ditches, marshes and other such bodies of surface water shall not be included in total lot size calculations. Sec. 7.10.G.1 shall be used for determining average daily domestic sewage flows for non-residential establishments. For residences and residential establishments average daily sewage flow calculations shall be based on Table 7.10-1. Where the number of bedrooms indicated on the floor plan and the corresponding heated or cooled area of a dwelling unit in Table 7.10-1 do not coincide, the standards which will result in the greatest estimated sewage flow shall apply.

TABLE 7.10-1
RESIDENTIAL SEWAGE FLOW CALCULATIONS

No. Bedrooms/Heated or Cooled Area per Dwelling Unit	Gallons of Sewage Flow per Day per Dwelling Unit
1 Bedroom/750 sq. ft. or less	150
2 Bedrooms/751-1,200 sq. ft.	250
3 Bedrooms/1,201-2,250 sq. ft.	350
4+ Bedrooms/2,251-3,300 sq. ft.	450

Each additional bedroom or each additional seven hundred fifty (750) square feet shall increase estimated sewage flows by one hundred (100) gallons per dwelling unit.

j. Design and size standards. The actual design and size of on-site systems to serve non-residential establishments and residences shall be based on requirements found in Sec. 7.10.G.1.

k. Mound system. A mound system may be used to overcome certain unfavorable site conditions such as seasonal high water table, shallow permeable soil overlying slowly permeable soil and shallow permeable soil located over creviced or porous bedrock.

l. Lot size exemptions. Parcels or tracts of land which were legally described on a deed, agreement for deed, survey, map, plat or drawing prior to January 1, 1972 or were part of the records of the Palm Beach County Tax Assessor's Office prior to January 1, 1972 shall be exempt from the lot size requirements of Sec. 7.10.F.4.a as long as a conditional use has not been granted or an amendment to the Official Zoning Map has not been made; provided, however, that neither an amendment to the Official Zoning Map which does not increase the permitted residential density of units on the parcels or tracts nor an amendment to the Official Zoning Map initiated by action of Palm Beach County shall be deemed to divest the parcels or tracts of the exemption provided. Qualification for exemption shall require submittal of documents specified in Sec. 7.10.F.2.d. Such lots are further exempt from the provisions of Secs. 7.10.F.4.c.(3) and 7.10.F.4.i, 10.F.4.i.(2) as follows:

(1) A minimum surface water setback of only fifty (50) feet is required provided the soils are not of the type addressed in Sec. 7.10.G.4.n.

(2) Lots at least five thousand five hundred (5,500) square feet in total size shall qualify for a single-family residence having no more than two (2) bedrooms or no more than one thousand (1,000) square feet of heated or cooled area.

m. **Location within 210-day travel time contour.** The following additional restrictions apply to on-site sewage disposal systems that are proposed within the 210-day travel time contour of an existing or proposed wellfield. These restrictions apply to requests for permits on individual lots, existing subdivisions and new subdivisions.

TRAVEL TIME (Days)	MAXIMUM SEWAGE LOADING (Gallons/acre/day)
Less than or equal to 30	350
Greater than 30 but less than or equal to 210	600

n. **Special soil conditions.** The following standards shall apply when the soil profile, as required under Sec. 7.10.F.2.a.(3), shows the presence of hardpan or bedrock or of soils classified as sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, clay and organic soils. The Palm Beach County Soil Survey prepared by the United States Department of Agriculture Soil Conservation Service or other available data may be used by the PBCPHU to determine the presence of the above noted soils.

(1) The maximum sewage loading shall not exceed four hundred fifty (450) gallons per acre per day.

(2) The on-site sewage disposal system shall be placed no closer than the minimum distances indicated for the following:

(a) One hundred (100) feet from a private well, as defined inArticle 3

(b) Three hundred (300) feet from a non-community well and a semi-public well, as defined in Sec. Article 3;

(c) Five hundred (500) feet from a community well, as defined in Sec. Article 3;

(d) Seventy-five (75) feet from a non-potable water well, as defined in Sec. Article 3; and

(e) One hundred (100) feet from the high water line of lakes, streams, canals or other surface waters.

G. **Design and construction standards.**

1. **Design flows.** Minimum design flows for systems serving any structure, building or group of buildings shall be based on estimated daily sewage flow, as determined from Table 7.10-2 or, for all structures except residences, the PBCPHU may accept metered water use data in lieu of the estimated sewage flows set forth in Table 7.10-2. For metered flow consideration, the applicant shall provide authenticated monthly water use data documenting water consumption for the most recent twelve (12) month period for at least six (6) similar establishments. Similar establishments are those of comparable size and operations engaged in the same type of business or service, which are located in the same type of geographic environment and which have approximately the same operating hours. Metered flow values shall not be considered to be a reliable indicator where one (1) or more of the establishments utilized in the sample has exceeded the monthly flow average for all six (6) establishments by more than twenty (25) percent, or where the different establishments demonstrate wide variations in monthly flow totals.

TABLE 7.10-2
ESTIMATED DOMESTIC SEWAGE FLOWS

Use	Unit	Gallons/Day
COMMERCIAL:		
Airports	Passenger Employee (8 hr. shift)	5 20
Barber and beauty shops	Chair	100
Bowling alleys	Toilet wastes only/lane	100
Country club	Resident Member Employee (8 hr. shift)	100 25 20
Dentist offices	Wet chair Dry chair	200 50
Doctors offices	Doctor	250
Factories, exclusive of industrial wastes	Gallons/Employee/8 hr. shift No showers provided Showers provided	 20 35
Hotels & motels	Regular/room Resort hotels, camps & cottages/person Add for establishments with self service, laundry facilities/machine	150 150 400
Office buildings	Employee/8 hr. shift	20
Service stations	Water closet & per urinal	250
Shopping centers without food or laundry establishments	Square foot of floor space	0.1
Stadiums, race tracks, ball parks	Seat	5
Stores	Square foot of floor space	0.1
Swimming and bathing facilities, public	Person	10
Theaters	Indoor, auditoriums/Seat Outdoor, drive-ins/Space	5 10
Trailer or Mobile Home Park	Trailer space	200

Use	Unit	Gallons/Day
Travel Trailer or recreational vehicle park	Travel trailer (overnight), without water and sewer hookup/trailer space Travel trailer (overnight), with water and sewer hookups/trailer space	75 100
Warehouses, dry storage only	Square foot of floor space	0.04
INSTITUTIONAL:		
Churches	Seat	3
Nursing, rest homes	Bed-(does not include kitchen wastewater flows)	100
Institutions	Meal	5
Parks, public picnic	Toilets only/Person Bathhouse, showers & toilets/Person	5 10
Public institutions other than schools and hospitals	Person-(does not include kitchen wastewater flows)	100
Schools	Student Day-type Add for showers Add for day school workers Boarding type	 15 5 15 75
Work or construction camps, semi-permanent	Worker	50
RESIDENTIAL:		
Single-family or multi-family	Dwelling unit 1 bdrm. and 750 sq. ft. or less heated or cooled area 2 bdrms. and 751-1200 sq. ft. heated or cooled area 3 bdrms. and 1201-2250 sq.ft. heated or cooled area 4 or more bdrms. and 2251-3300 sq. ft. heated or cooled area Each additional bdrm. over 4 add.	 150 300 450 600 75
Other	Occupant	75

For each additional bedroom or each additional seven hundred fifty (750) square feet of building area or fraction thereof in a dwelling unit, system sizing shall be increased by one hundred fifty (150) gallons per dwelling unit.

2. Septic tank capacity. Minimum effective septic tank capacity shall be determined from Table 7.10-3. However, where multiple-family dwelling units are jointly connected to a septic tank system, minimum effective septic tank capacities specified in the table shall be increased by at least seventy-five (75) gallons for each dwelling unit connected to the system.

TABLE 7.10-3
SEPTIC TANK CAPACITY

Average Sewage Flow (Gallons/Day)	Minimum Effective Capacity (Gallons)
0-500	900
501-600	1050
601-700	1200
701-800	1350
801-900	1500
901-1000	1650
1001-1250	1900
1251-1500	2200
1501-2000	2700
2001-2500	3200
2501-3000	3700
3001-3500	4300
3501-4000	4800
4001-4500	5300
4501-5000	5800

3. Laundry waste systems. A separate laundry waste system may be utilized for residences. Where a separate system is used, the following requirements shall apply.

a. The minimum drainfield absorption area shall be seventy-five (75) square feet for a one (1) or two (2) bedroom residences with an additional twenty-five (25) square feet for each additional bedroom. The PBCPHU may require additional drainfield area depending on site specific conditions.

b. The laundry waste interceptor shall meet the requirements of Sec. 7.10.G.9.

c. A size reduction of twenty-five (25) percent shall be allowed for the main septic tank and drainfield system. However, the minimum capacity of the septic tank shall not be reduced below nine hundred (900) gallons.

4. **Drainfield absorption area.** The minimum absorption area for drainfield systems shall be based on estimated domestic sewage flows and Table 7.10-4. Table 7.10-4 assumes the use of drain trenches. If an absorption bed is used in lieu of drain trenches, the size of the absorption area shall be increased by twenty-five (25) percent for sand, loamy sand and sandy loam soils and by fifty (50) percent for other approved soil classes. Mound drainfield size shall be based on the quality of fill material utilized in the mound system and shall be in compliance with the following table:

Fill Material	Maximum Sewage Loading Rate (Gallons/sq. ft./day)
Sand or Loamy Sand	1.2
Sandy Loam	0.6

TABLE 7.10-4

U.S. Department of Agriculture Soil Textural Classification	Percolation Rate	Maximum Sewage Loading Rate (Gallons per sq. ft./Day)
Sand and Loamy Sand	Less than 2 minutes/inch	2.0
Sandy Loam Fine Sand	2-4 minutes/inch 2-4 minutes/inch	1.5 1.2
Loam and Silt Loam	5-10 minutes/inch	1.0
Silt and Sandy Clay Loam	Greater than 10 minutes/inch but not exceeding 15 min./inch	.75
Clay Loam, Silty Clay Loam, Sandy Clay and Silty Clay	Greater than 15 minutes/inch but not exceeding 30 minutes/inch	0.50
Clay, Organic Soils, Hardpan and Bedrock	Greater than 30 minutes/inch	Unsatisfactory for standard subsurface system
Very Coarse Sand, Gravel and Fractured Rock	Less than 1 minute/inch and a water table less than 4 feet below the drainfield	Unsatisfactory for standard subsurface system

(1) U.S. Department of Agriculture major soil textural classification groupings and methods of field identification are explained in the Florida Soils Identification Handbook. Laboratory sieve analysis of soil samples may be necessary to confirm field evaluation of specific soil textural classification. The U.S. Department of Agriculture Soil Conservation Service "Soil Textural Triangle" shall be used to classify soil groupings based on the proportion of sand, silt and clay size particles.

(2) When all other site conditions are favorable, thin horizons or strata of moderate or severe limited soil may be replaced with slight limited soil. The resulting soil profile must be satisfactory to a minimum depth of fifty-four (54) inches beneath the bottom surface of the proposed drainfield. The width of the replacement area shall be at least three (3) times the drain trench width and for absorption beds shall include an area at least ten (10) feet wider than the proposed bed width. The drainfield shall be centered in the replaced area.

5. Drainfield system construction standards.

a. Distribution box. Where gravity flow is possible, a distribution box shall be required for distributing sewage from the septic tank or other treatment receptacle to the drainfield. The distribution box may be built as an integral part of the septic tank or may be a separate unit set on solid ground and anchored in the drainfield.

(1) Distribution boxes shall be watertight, constructed of durable materials, have adequate structural strength, and be of sufficient size to accommodate the required number of distribution pipes.

(2) Each distribution pipe shall be connected individually to the box.

(3) The invert of inlets to the box shall be at least one inch above the invert of the outlets. The invert of all outlets shall be level with respect to each other.

b. Header pipe. A header pipe shall be used in lieu of a distribution box when an automatic dosing system is used for drain trenches or absorption beds over one thousand (1,000) square feet as required under Sec. 7.10.G.5.c. The header pipe shall be installed in compliance with the following requirements:

(1) Header pipe shall meet requirements of ASTM D3034-83, for polyvinyl chloride material or ASTM F 405-82a, heavy duty classification, for smooth inner wall polyethylene material. Header pipe shall have a minimum inside diameter of two (2) inches.

(2) The header pipe shall be laid level with direct, watertight connections to each distribution pipe and the dosing tank outlet pipe. The header pipe shall be encased in filter material and restrained with concrete thrust blocking.

c. Automatic dosing system. An automatic dosing system shall be used where the required area of the drainfield is greater than one thousand (1,000) square feet or where gravity flow into the drainfield is not possible. Plans and equipment specifications for automatic dosing systems shall be approved by the PBCPHU prior to construction or installation. Pumps used to distribute sewage effluent must be certified by the manufacturer to be suitable for such purpose.

(1) Dosing systems for less than two thousand (2,000) square feet of drainfield shall consist of a dosing tank that receives the flow from a septic tank or other treatment receptacle. This dosing tank shall be at least twenty-four (24) inches in diameter, or equivalent rectangular size, and shall be provided with one (1) or more pumps with level controls set in accordance with the requirements set forth in Secs. 7.10.G.5.c.(3) and 7.10.G.5.c.(4). Two (2) pumps shall be required for commercial use and multi-family residential use where estimated establishment sewage flows exceed four hundred fifty (450) gallons per day.

(2) Systems having more than two thousand (2,000) square feet of drainfield shall have two (2) dosing pumps, with each pump serving one-half (½) of the total required drainfield. The pumps shall dose alternately.

(3) The volume of the dosing chamber between the pump operating levels shall be adequate to assure that the entire distribution pipe is dosed each cycle. The volume of pipe typically used in drainfield systems is as follows:

Pipe Size	Volume of Conduit
2 inch	0.16 Gal. per foot
4 inch	0.65 Gal. per foot
6 inch	1.47 Gal. per foot

(4) When a drainfield is installed in sand, loamy sand or sandy loam soils, operating levels should be adjusted to dose the drainfield four (4) times in a twenty-four (24) hour period. For fine textured soils the drainfield should be dosed no more than two (2) times in a twenty-four (24) hour period.

(5) A high water alarm shall be provided to warn of pump failures.

d. Drain trenches and absorption beds. Drain trenches are the standard drainfield systems used for disposing of effluent from septic tanks or other treatment receptacles. Absorption beds may be approved by the PBCPHU on a case-by-case basis and used in lieu of the drain trench method; they shall not be constructed and used without prior approval. These systems shall be constructed as specified below:

(1) When utilizing the drain trench method, the width of the trench at the bottom shall be eighteen (18) to twenty-four (24) inches. There shall be a minimum separation distance of six (6) feet between centers of the trenches.

(2) The distance between the centers of distribution lines in an absorption bed shall be a maximum of three (3) feet for four (4) inch pipe and four (4) feet for six (6) inch pipe. The distance between the side wall of the bed and the center of the outside drain line shall be one and one-half (1½) feet for drain pipe.

(3) All portions of the header pipe or perforated pipe, shall be installed in filter material of washed and screened gravel, stone, slag, or similar material meeting State of Florida Department of Transportation (DOT) specifications under Section 901, "Standard Specifications for Road and Bridge Construction, 1991". Filter material may vary in size from one-quarter (¼) inch to two (2) inches and shall be free of excess fines which could clog the soil infiltrative surface. Approved standard sizes for various filter materials are:

Material	DOT Size Number
Limestone, slag and similar material	3, 4 or 5
Quartz rock and river gravel	3, 4, 5, 6 or 7

(4) Filter material shall encase the distribution pipe to a minimum depth of six (6) inches under the pipe and have a total depth of at least twelve (12) inches extending throughout the width of the trench or absorption bed.

(5) The filter material in place shall be protected from infiltration of earth backfill by an effective barrier of polyester bonded filament or other acceptable material as determined by the PBCPHU.

(6) The maximum depth from the invert of the distribution pipe to the finished ground surface shall not exceed twenty-four (24) inches. The minimum earth cover over the top of the distribution box or header pipe shall be six (6) inches.

(7) The inside diameter of the distribution pipe shall be determined based on the type and design of the proposed drainfield system. However, for standard subsurface systems, inside pipe diameter shall not be less than four (4) inches. Perforated pipe shall have a minimum perforated area of one and one-half (1½) square inches per linear foot. Perforations shall be located in the bottom half of the pipe. However, for drainfield systems over five hundred (500) square feet in size, the distribution perforation area and hole configuration shall be especially designed in order to assure that effluent is distributed throughout the drainfield area. All plastic pipe shall conform to the standards of ASTM F 405-82a. For standard subsurface systems, distribution pipe shall be graded with a downward slope of one-quarter (¼) inch to one-half (½) inch per ten (10) feet. In case of an automatic dosing system, the distribution pipe may be placed level or on a downward slope not exceeding one-half (½) inch per ten (10) feet. The maximum length of distribution pipe shall not exceed one hundred (100) feet and where two (2) or more pipes are used, they shall be, as near as practical, the same length. The ends of two (2) or more distribution pipes in an automatic dosing system, shall be connected to produce a continuous circuit.

e. **Mound system.** A mound system may be used to overcome certain unfavorable site conditions and must meet the following requirements:

(1) The design shall comply with all the standards outlined in Sec. 7.10.F.4.

(2) The maximum height, base to crest, of a mound system shall be thirty-six (36) inches. However, prior to the construction of a mound system, all or a portion of a lot may be filled utilizing satisfactory soil. If a lot or portion of a lot is filled, the fill shall extend a minimum of twenty (20) feet in all directions beyond the perimeter of the mound base.

(3) The "O" Horizon of original topsoil and vegetation must be removed from the fill site and the exposed underlying soil plowed or roughened to prevent formation of an impervious barrier between the fill and natural soil. If unsatisfactory soil is to be replaced beneath the mound, the width of the replacement area shall be at least ten (10) feet wider than the proposed drainfield absorption bed.

(4) There shall be a minimum five (5) feet separation between the shoulder of the fill and the nearest trench or absorption bed sidewall. To taper the maximum elevation of the mound down to the toe of the slope, additional fill shall be placed at a minimum four to one (4:1) grade, provided that where the mound is to be sodded concurrent with its construction, the additional fill may be placed at a minimum two to one (2:1) grade. When a mound is not sodded concurrent with its construction, the mound shall be seeded with grass and a layer of hay or similar cover shall be placed to prevent mound erosion. The mound shall be stabilized within thirty (30) days of completion of mound construction.

(5) There shall be a nine (9) to twelve (12) inch soil cap spread evenly over the drainfield gravel.

(6) The site shall be landscaped according to permit specifications and shall be protected from vehicular traffic or other activity that could damage the system. Storm water run off from the mound system shall not be allowed to drain onto neighboring property.

f. **Large diameter drainpipe trench (LDDT) systems.** Large diameter drainpipe trench systems can be substituted for gravel filled drain trenches where the systems are to be installed in sand, loamy sand or sandy loam soils. Verification of the aforementioned soil categories shall be made by certified laboratory. Where LDDT systems are utilized, they shall be constructed of at least eight (8) inch minimum inside diameter corrugated tubing encased in a filter wrap. Each linear foot of eight (8) and ten (10) inch diameter drainpipe is equivalent to two (2) square feet and three (3) square feet respectively of soil absorption area. LDDT systems shall not be utilized in mound systems. Large diameter drainpipe shall be manufactured in accordance with the following specifications:

(1) The eight (8) inch or ten (10) inch inside diameter tubing shall be corrugated polyethylene, or of material in strength and durability meeting the requirements of ASTM F667, standard specification for 8", 10", 12" and 15" corrugated polyethylene tubing with the following exceptions:

(a) Perforations shall be cleanly cut and uniformly spaced along the length of the tubing as follows: two (2) rows of three-eighths (⅜) to one-half (½) inch diameter holes located 115 degrees - 125 degrees apart along the bottom half of the tubing with each row of holes 57.5 degrees - 62.5 degrees up from the bottom centerline. These perforations should be staggered so that there is only one hole in each corrugation.

(b) The tubing shall be marked with a visible top location stripe.

(2) All large diameter drainpipe shall be encased, at the point of manufacture, with a spun bonded nylon, or other material of similar strength and durability. This wrap shall have the following general qualities:

Physical Properties	Minimum Values
Grab Strength, lbs. (ASTM D1682)	11
Burst Strength, psi (ASTM D3887)	26
Air Permeability, cfm per sq. ft. (ASTM D737)	500
Water Flow Rate, gpm per sq. ft. at 3" head	500
Surface Reaction to water (Polyethylene particles in water solution)	Hydrophilic

Particle Size (Microns)	Percent Retained
70	80
60	68
50	56
40	40
30	22
20	5

(3) LDDT system installations shall conform to all rules and regulations which apply to gravel filled trench systems with the following exceptions:

(a) The large diameter drainpipe shall have at least twelve (12) inches but not more than twenty-four (24) inches of soil cover. In addition, the distribution box outlet invert of header pipe invert shall be at least one (1) inch higher than the invert of the large diameter drainpipe perforations. The invert of the large diameter drainpipe shall be considered as the bottom surface of the drainfield when applying the site evaluation criteria of Sec. 7.257.

(b) The pipe shall be laid level and positioned in the trench so that each row of drain holes is located approximately sixty (60) degrees from the bottom centerline of the pipe. A cap shall be placed on the end of each line.

(c) The trench shall be backfilled to grade with slight limited soil.

6. Treatment receptacles. The following requirements shall apply to all treatment receptacles manufactured for use in Palm Beach County unless specifically exempted by other provisions of these sections:

a. Treatment receptacles shall be watertight and may have single or multiple compartments, or receptacles may be placed in series, to achieve required liquid capacity. The first chamber of a multi-compartment receptacle or the first receptacle of two (2) or more receptacles placed in series shall have an effective liquid capacity of at least two-thirds (⅔) of the total required liquid capacity. Additional chambers shall have a minimum effective liquid capacity equal to or greater than one-half (½) of the liquid capacity of the first chamber.

b. Each compartment shall have access provided by twenty-four (24) inch maximum width sectional lids, or have manholes, with each manhole having a minimum area of two hundred twenty-five (225) square inches. Manholes or sectional lids shall be located so as to allow access to the inlet and outlet devices. Single compartment receptacles shall have either (1) an access manhole or a sectional lid over the inlet extending to ground surface, or (2) a permanent marker, such as a minimum one hundred forty-four (144) square inch by four (4) inch thick concrete pad, exposed at finished grade to indicate the location of the inlet manhole or sectional lid. For multi-compartment receptacles in series, manholes or sectional lids shall extend to finished grade; or, alternatively, permanent markers shall be placed at finished grade over the first compartment inlet and the last compartment outlet. When exposed at ground surface, an appropriate mechanism shall be provided to make access manholes resistant to vandalism and tampering.

c. The liquid depth of compartments shall be at least forty-two (42) inches. Liquid depths greater than seventy-two (72) inches shall not be considered in determining the effective liquid capacity.

d. A minimum free board or air space of fifteen (15) percent of the volume of the holding capacity of the receptacle shall be provided.

e. The inlet invert shall enter the receptacle one (1) to three (3) inches above the liquid level of the receptacle. A vented inlet tee, vented sweep or a baffle shall be provided to divert incoming sewage. The inlet device shall have a minimum diameter of four (4) inches and shall not extend below the liquid surface more than thirty-three (33) percent of the liquid depth.

f. A minimum four (4) inch diameter vented outlet tee sweep or baffle shall extend below the liquid level of the receptacle a distance not less than thirty (30) percent nor greater than forty (40) percent of the liquid depth, and shall extend at least five (5) inches above the liquid level. The submerged opening of the outlet fixture shall be provided with an approved solids deflection device to reduce the area exposed to the vertical rise and fall of solid particles by at least ninety (90) percent. Turning the submerged opening of an outlet device ninety (90) degrees from the vertical will satisfy the solids deflection device requirement.

g. The inlet and outlet devices shall be located at opposite ends of the receptacle so as to be separated by the maximum distance possible and shall be attached in a watertight manner.

h. Sewage flow between the first and second chamber of a multi-chamber receptacle shall interconnect, utilizing either a minimum six (6) inch diameter hole or equivalent size slot in the wall or with a minimum six (6) inch diameter vented and inverted U-fitting or a tee. Receptacles in series shall interconnect utilizing a vented, inverted U-fitting or a tee. The intake of the outlet device or hole invert shall extend below the liquid surface approximately thirty-three (33) percent of the liquid depth.

i. Receptacles shall be provided with a suitable legend cast or stamped into the wall at the inlet end, and within six (6) inches of the top of the wall. The legend shall identify the manufacturer, the year the tank was manufactured and shall indicate the effective liquid capacity of the receptacle in gallons.

7. Construction materials for treatment receptacles.

a. Concrete receptacles. Concrete treatment receptacles shall be watertight and may be built of precast or poured-in-place concrete which has a design mix for unit compressive strength of at least three thousand (3,000) pounds per square inch after twenty-eight (28) days curing.

(1) Precast concrete receptacles with a capacity of twelve hundred (1,200) gallons or less shall have a minimum wall and bottom thickness of two (2) inches. Precast receptacles with a capacity exceeding twelve hundred (1,200) gallons shall have a minimum wall and bottom thickness of three (3) inches. Precast concrete receptacles shall contain reinforcing to facilitate handling. Receptacles of concrete poured in place shall have a minimum wall and bottom thickness of four (4) inches. The bottoms of concrete treatment receptacles shall be monolithic and an integral part of the walls.

(2) Receptacles with capacities of twelve hundred (1,200) gallons or less shall have tops or covers of concrete with a minimum thickness of three (3) inches when precast and four (4) inches when poured in place. When capacities exceed twelve hundred (1,200) gallons, the tops shall be precast with a minimum thickness of four (4) inches.

(3) Tops shall be reinforced with three-eighths (3/8) inch steel reinforcing rods on six (6) inch centers in each direction. Whenever vehicular traffic is anticipated to cross over any treatment receptacle, traffic lids shall be installed with manhole covers to finished grade. Traffic lids and treatment receptacles shall be designed to support a minimum load of ten (10) tons.

b. Fiberglass receptacles. Fiberglass reinforced plastic treatment receptacles shall not be used under any area subject to vehicular traffic. The following structural requirements are applicable to fiberglass receptacles and other receptacles made of a comparable class of materials.

(1) Resins and sealants used in the receptacles manufacturing process shall be capable of effectively resisting the corrosive effects of sewage, sewage gases and soil burial. Materials used shall be formulated to withstand shock, vibration, normal household chemicals, earth and hydrostatic pressure when either full or empty.

(2) Not less than thirty (30) percent of the total weight of the receptacle shall be fiberglass reinforcement. Fiberglass receptacles with an effective liquid capacity of fifteen hundred (1,500) gallons and less shall have a minimum wall thickness of one-quarter (¼) inch. However, a wall thickness of not less than three-sixteenths (3/16) inch will be allowed in small isolated areas of the receptacle.

(3) Internal surfaces shall be coated with an appropriate gel coating to provide a smooth, pore-free, and watertight surface.

(4) Two (2) piece receptacles shall be made watertight, by the use of an approved sealer and approved non-corrosive fasteners.

(5) Receptacles shall be constructed so that all parts meet the following mechanical requirements:

(a) Ultimate tensile strength - minimum 12,000 PSI when tested in accordance with ASTM D 638-82, Standard Method of Test for Tensile Properties of Plastics.

(b) Flexural strength - minimum 19,000 PSI when tested in accordance with ASTM D 790-81, Standard Method of Test for Flexural Properties of Plastics.

(c) Flexural modulus of elasticity - minimum 800,000 PSI when tested in accordance with ASTM D 790-81, Standard of Test for Flexural Properties of Plastics.

(6) A test report from an independent testing laboratory is required to substantiate that individual receptacle designs and material formulations meet the requirements of Sec. 7.10.G.7.b.(5) above.

(7) Physical properties for receptacles over fifteen hundred (1,500) gallons effective liquid capacity must be approved by the PBCPHU.

(8) Receptacle lids shall be securely fastened or sealed to prevent unwarranted access to the contents of the receptacles.

c. **Other materials.** Treatment receptacles to be constructed of other materials shall have prior approval from the PBCPHU.

8. Grease trap. A grease trap is not required for a residence. However, one or more grease traps are required where grease waste is produced in quantities that could otherwise cause line stoppage or hinder sewage disposal. The design of grease traps shall be based on standards found in applicable local plumbing codes. In addition, the following general requirements apply when determining the proper use and installation of a grease trap used as a component of an on-site sewage disposal system.

   a. Grease traps must be located so as to provide easy access for routine inspection, cleaning and maintenance. Manholes shall be provided over the inlet and outlet of each grease trap and be brought to finished grade.

   b. Where a grease trap is required, wastewater containing grease shall first pass through the trap and then be discharged into the first compartment of a treatment receptacle or other approved system.

   c. Invert of inlet shall be a minimum of three (3) inches above liquid level line of grease trap.

   d. Flow from trap shall be baffled with tee or vented sweep (quarter bend) at outlet and extending within eight (8) inches of bottom of trap.

   e. The minimum size grease trap shall be no smaller than seven hundred fifty (750) gallons.

9. Laundry waste interceptor. When a separate system is installed to dispose of wastewater from home washing machines only, the retention tank or interceptor for such system shall meet the following minimum standards:

   a. The minimum effective capacity shall be two hundred twenty-five (225) gallons when the estimated sewage flow is less than or equal to nine hundred (900) gallons per day and seven hundred fifty (750) gallons for flows greater than nine hundred (900) gallons per day.

   b. The interceptor shall be baffled and vented as specified in the septic tank construction standards found in Sec. 7.10.G.6.

   c. The interceptor shall not be used as a grease trap.

10. Portable toilets. The following general standards apply to portable toilets:

   a. Portable toilets shall be self contained, have self-closing doors, have screened vents and shall be designed and maintained so that insects are excluded from the waste container.

   b. Waste receptacles shall be watertight and made of non-absorbent, acid resistant, non-corrosive and easily cleanable material.

c. The floors and interior walls shall have a non-absorbent finish and shall be easily cleanable.

d. The inside of the structure housing the storage compartment shall be cleaned and disinfected on each service visit.

e. Portable toilets shall be serviced weekly or at more frequent intervals to prevent the creation of unsanitary conditions.

11. Alternative systems. When approved by the PBCPHU, alternative systems may be utilized where septic tank systems are not suitable or where a greater degree of treatment is desirable. All rules pertaining to drainfield systems and their design shall apply to alternative systems. Use of an alternative system may require the establishment of procedures for routine maintenance, operational surveillance and environmental monitoring to assure that the system continues to function properly. Use of a system to serve more than one (1) residence or commercial building under separate ownership and when located on separate lots shall require the establishment of a local sewer district, maintenance franchise or other legally binding arrangement for the operation and maintenance of such system. In addition, the PBCPHU shall require the submission of plans prepared by an engineer registered in the State of Florida and qualified in the field of waste water system design prior to considering the use of any alternative system. The PBCPHU shall also require the design engineer to certify that the installed system complies with the approved design and installation requirements. The following alternative systems may be considered for approval by the PBCPHU.

a. Compost toilets. Organic waste composting toilets may be approved for use, provided that graywater and any other liquid and solid waste is properly collected and disposed of in accordance with standards established in this Section; odor control is provided; and the system has NSF approval.

b. Aerobic treatment. Aerobic treatment units may be utilized for residential and commercial domestic sewage treatment, provided that the unit to be installed is in compliance with National Sanitation Foundation (NSF) standards for Class I or Class II systems as defined by NSF Standards Number 40, revised May 1983, and provided the unit is approved by the PBCPHU. The following additional requirements shall also apply:

(1) An appropriate failure warning device shall be installed in a conspicuous location.

(2) Servicing equipment and replacement parts must be readily available to provide for continuous operation of the system.

(3) There shall be no bypass designed into the unit. Effluent shall not leave the unit without receiving treatment necessary to achieve the appropriate NSF Class I or Class II effluent quality.

(4) Effluent from an aerobic sewage treatment unit shall be disposed of on the owner's property in conformance with other requirements of this Section.

(5) There shall be an approved public or private management entity to service and maintain each aerobic treatment. Eligible management entities include cities, counties, water and sewer districts, sanitary districts, and public or private utilities. A private commercial management entity may be utilized provided each homeowner, or group of homeowners, submits a written contract to the PBCPHU which guarantees that the aerobic treatment unit will be maintained for the life of the system. Also, where State or local laws require a homeowners association for a particular type of development, such non-profit corporation may be considered to be an acceptable management entity.

(6) Other alternative systems meeting the general requirements of this Section may be approved by the PBCPHU on a case-by-case basis, where evidence exists that use of such systems will not create sanitary nuisance conditions, health hazards or pollute receiving waters.

H. Percolation tests.

1. When a percolation test is required to be performed, one or more test holes shall be dug within the area proposed for a drainfield system. Where soil conditions within the area are highly variable, a minimum of three percolation test holes, uniformly spaced, shall be required.

2. The diameter of each test hole shall be six (6) inches, dug or bored to the proposed depth of the absorption system. To expose a natural soil surface, the sides of the hole shall be scratched with a sharp pointed instrument and the loose material shall be removed from the bottom of the test hole. To protect the bottom from scouring action when water is added, two (2) inches of one-half (½) to three-quarter (¾) inch gravel shall be placed in the hole.

3. The hole must be carefully filled with at least twelve (12) inches of clear water. This depth of water shall be maintained for at least four (4) hours and preferably overnight if clay soils are present. Automatic siphons or float valves may be employed to automatically maintain the water level during the soaking period. In sandy soils with little or no clay, soaking is not necessary. If, after filling the hole twice with twelve (12) inches of water, the water seeps completely away in less than ten (10) minutes, the test can proceed immediately.

4. Except for sandy soils, percolation rate measurements shall be made at least fifteen (15) hours, but no more than 30 hours, after the soaking period began. Any soil that sloughed into the hole during soaking period shall be removed and the water level adjusted to six (6) inches above the gravel (or 8 inches above the bottom of the hole). At no time during the test shall the water level be allowed to rise more than six (6) inches above the gravel. Immediately after adjustment, the water level is measured from a fixed reference point to the nearest one-sixteenth (1/16) inch at thirty (30) minute intervals. The test shall be continued until two (2) successive water level drops do not vary by more than one-sixteenth (1/16) inch. At least three (3) measurements must be made. After each measurement, the water level shall be readjusted to the six (6) inch level. The last water drop shall be used to calculate the percolation rate. In sandy soils or soils in which the first six (6) inches of water added, after the soaking period, seeps away in less than thirty (30) minutes, water level measurements are made at ten (10) minute intervals for a one hour period. The percolation rate is calculated for each test hole by dividing the time interval used between measurements by the magnitude of the last water level drop. This calculation results in a percolation rate in terms of minutes/inch. To determine the percolation rate for an area where soil conditions are highly variable, the rates obtained from each test hole shall be averaged. However, if the individual rates vary by more than twenty (20) minutes per inch, the maximum rate shall be used.

I. Collection, treatment and disposal of septage.

1. No person(s) or corporation shall engage in the business of servicing septic tanks, grease traps, portable toilets or other treatment receptacles without first obtaining an annual license from the PBCPHU.

2. Application for a septage disposal service license shall be made to the PBCPHU. The following must be provided for evaluation prior to issuance of a license:

   a. Evidence that the applicant possesses adequate equipment such as a tank truck, pumps, appurtenances and tools for the work intended.

   b. The permanent location and address of the business where operations will originate and where equipment is to be stored when not in use.

   c. The proposed disposal method and the site to be used for disposing of septage.

3. The service truck shall display in three (3) inch or larger letters:

   a. The date license was issued;

   b. The license number; and

   c. The name of the company, its address, and telephone number.

4. After septage is removed from a treatment receptacle, grease trap or laundry interceptor, the tank lid shall be properly secured, sealed, backfilled and the site left in a safe and nuisance free condition.

5. Septage shall be transported to the disposal site in a manner that will preclude leakage, spillage or the creation of a sanitary nuisance.

6. The septage from an on-site waste disposal system shall be disposed of in a manner approved by the PBCPHU. Untreated septage shall not be applied to the land.

7. No on-site storage facility shall be utilized without prior approval by the PBCPHU.

8. All service records shall be maintained at the business location and made available to any representative of the PBCPHU upon request.

9. The following equipment, maintenance and service requirements shall be complied with:

   a. All waste transportation equipment shall be maintained in good working order at all times. Valves, hoses, tanks and appurtenances shall be properly maintained and shall not leak. Valves shall be locked to prevent accidental opening during transportation and storage.

   b. Tank trucks used for servicing portable toilets shall be provided with a dual compartment tank and shall be approved by the PBCPHU. One tank shall be used for receiving and removing wastes and shall be equipped with a suction hose having a cut-off valve not more than thirty-six (36) inches from the intake end. The second tank shall be used for clean water storage and shall be of adequate size to allow proper cleaning of each serviced unit. Water from the second tank shall be provided under pressure.

   c. Standby service equipment shall be available for use during breakdown or emergencies. If equipment from another approved service is to be used for standby purposes, a written agreement between the services must be provided to the PBCPHU.

   d. The waste storage compartment of a tank truck shall be maintained as necessary to prevent the creation of sanitary nuisance conditions.

   e. There shall appear in a conspicuous place on each portable or temporary toilet the name, address and telephone number of the servicing company.

J. Maintenance. Any person owning or controlling property upon which an on-site sewage disposal system is installed shall be responsible for maintenance of the system. The following criteria are provided for guidance in proper system maintenance.

1. Systems shall be maintained at all times to prevent seepage of sewage or effluent to the surface of the ground.

2. Septic tanks and other sewage retention tanks should be checked at least once every three years, or once a year if garbage grinders are discharging to the tank, to determine if sludge must be removed. Tanks should be cleaned whenever the bottom of the scum layer is within eight (8) inches of the bottom of the outlet device or when the sludge level is within eighteen (18) inches of the bottom of the outlet device.

3. Grease traps should be cleaned at appropriate intervals to insure that at least fifty (50) percent of the grease retention capacity of the trap is retained.

4. Organic chemical solvents shall not be used for the purpose of degreasing or declogging on-site sewage disposal systems.

K. **Appeals.** Persons aggrieved by a requirement, interpretation or determination of this section made by the PBCPHU or the Environmental Control Officer may appeal to the Environmental Appeal Board by filing a written notice of appeal to the Environmental Control Officer. However, no appeal shall be filed which requests relief from the construction standards required under Sec. 7.10.G.

1. **Fee.** The notice shall be accompanied by a certified check or money order made payable to the PBCPHU 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, multi-family, commercial, or subdivisions.

2. **Application submittal requirements.** 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 Secs. 7.10.L.3 and 7.10.L.4, if applicable to the appeal. The Environmental Appeal Board may require such additional information as it deems necessary. A separate application must be filed for each site or system considered for an appeal. The burden of presenting supportive facts in the application shall be the responsibility of the person filing the appeal. The person filing the appeal shall have the burden of proving entitlement to relief. The PBCPHU or the Environmental Control Officer shall defend all appeals before the Environmental Appeal Board.

3. **Information required for an appeal for an individual lot.** Ten (10) copies of the following information prepared by an engineer or land surveyor registered in the State of Florida must be submitted with the notice of appeal for an individual lot.

   a. Floor plan.

   b. A site plan drawn to scale showing:

      (1) Boundaries with dimensions

(2) Elevations or slope of land
(3) Location of building(s)
(4) Location and layout of septic tank
(5) Location and layout of drainfield
(6) Location of potable water supply lines
(7) Location of well
(8) Location of public sewers
(9) Location and elevation of percolation test
(10) Location of septic tank, drainfield and well on adjacent properties (sides, front and rear)
(11) Location of driveways, parking and walkways
(12) Benchmark on or adjacent to property

c. The site plan must indicate the following (related to the system):

(1) Distance from private well
(2) Distance from public well
(3) Distance of septic tank and drainfield from building
(4) Distance of septic tank and drainfield from property line
(5) Distance from water supply lines
(6) Distance to high water line of lakes, canals, streams, etc.

d. Percolation test results in the drainfield area.

e. A soil profile to six feet (in drainfield area) indicating the soil classification and showing the existing water table and the estimated wettest season water table.

4. Information required for an appeal for a subdivision. Ten (10) copies of the following information prepared by an engineer registered in the State of Florida must be submitted with the notice of appeal for a subdivision.

a. General Information.

(1) Name of subdivision
(2) Owner
(3) Address
(4) Location of subdivision
(5) Total area of subdivision (in acres)
(6) Number of lots
(7) Minimum lot size
(8) Location, size, and distance of adjacent subdivisions
(9) Approximate adjacent acreage available for expansion
(10) Description of typical home to be constructed, including number of bedrooms and square footage of heated or cooled area

b. Required exhibits

(1) A location map showing the location of the subdivision in relation to the surrounding areas and nearby built-up areas.

(2) A contour map indicating all streams or watercourses, bodies of water, low, wet or marshy land, rock outcrops and filled areas.

(3) A plat of the subdivision showing the individual lots, if available, or a proposed subdivision layout.

(4) A plan of the subdivision indicating all drainage structures and features, designed in accordance with the requirements of the SFWMD and the local drainage district.

(5) A plan of the subdivision indicating proposed water and sewer lines.

c. Water supply

(1) Source of proposed water supply (community, non-community, private well).

(2) If a utility is expected to supply water, submit evidence of availability of the water supply.

(3) If an on-site well is utilized, submit evidence that ground water is of adequate quality.

d. Sewage disposal

(1) Name of municipal, county, or investor-owned utility sewerage system

(2) Description of nearest existing sewer (distance, size, and whether gravity flow is possible)

(3) Copy of a letter from responsible official outlining municipality's or county's position on connection to sewerage system

(4) Description of the status of municipality or county plans to extend sewers to this area in the future (preliminary plans approved, final plans approved, contract awarded, estimated date sewers will be available)

e. Water and/or sewer lines

(1) Are dry water and/or sewer lines being proposed (if not, explain why it is not economically or technically feasible)?

(2) What arrangements has the developer made to connect the dry lines to water and/or sewer upon the availability of such lines?

f. On-site water and sewage treatment facilities.

(1) Explain why on-site water and sewage treatment facilities are not economically or technically feasible.

g. Survey of subsoil conditions.

(1) A sufficient number of percolation test and soil classifications shall be performed so as to adequately represent the existing subsoil conditions, including water table elevation (minimum of ten percent of the number of lots).

(2) All test hole locations shall be clearly indicated on the required topographical map.

(3) Submit data for the wettest season water table expected for the proposed subdivision after the drainage system is constructed.

5. 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 individual sewage disposal system fails to meet the minimum distance required between the system and a well, as provided by this section; or

b. The proposed septic tank is within five (5) feet of a neighboring lot; or

c. The proposed septic tank is within fifty (50) feet of a water body on a neighboring lot.

6. 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.

7. 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.

8. 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.

9. 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 issue an order affording the proper relief consistent with the powers granted herein. The findings and order shall be by motion approved by a majority of those members present and voting.

10. In order to grant an appeal authorizing an individual sewage disposal system on a single lot, the Environmental Appeal Board must find that:

    a. Because of special factors, which may include economic factors, the applicant is unable to comply with this Section and

    b. The individual sewage disposal system complies with current construction standards; and

    c. The granting of the appeal is the minimum alternative that will make possible the reasonable use of the land, structure or building; and

    d. The granting of the appeal is consistent with the general intent, purpose and requirements of Palm Beach County laws and ordinances; and

    e. The granting of the appeal will not be injurious to the area involved or to the public health and general welfare.

11. In order to grant an appeal authorizing individual sewage disposal systems in subdivisions containing lots smaller than those required under this section, the Environmental Appeal Board must additionally find:

a. That for a proposed subdivision to be served by individual private wells, each lot has at least one-half (½) acre, with a minimum dimension of one hundred (100) feet and that said subdivision contains no more than fifty (50) lots; or that for the proposed subdivision to be served by a public water system, each lot has at least one-third (⅓) acre with a minimum dimension of seventy-five (75) feet and that said subdivision contains no more than one hundred (100) lots; and

b. That satisfactory ground water can be obtained if an individual private well is to be used; and

c. That all distance and setbacks, soil conditions, water table elevations and other related requirements of this Section and Chapter 10D-6, F.A.C., are met; and

d. That the proposed subdivision does not represent sequential development of contiguous subdivisions, the purpose of which is to avoid the requirements of Sec. 7.10.K.11.a, 10.K.11.l; and

e. That a municipal, county or investor-owned public sewerage system is not available contiguous to the proposed subdivision or within one-quarter (¼) mile thereof with public right-of-way accessibility; and

f. That the proposed plat contains notification that the lots must be connected to a municipal, county or investor-owned water supply and/or sewerage system within ninety (90) calendar days from the date such system becomes available; and

g. That the proposed density of the subdivision is consistent with the density recommended in the Comprehensive Plan or in the Land Use Plan of the appropriate municipality; and

h. That the developer has made every reasonable effort to obtain public water and sewer; and

i. That dry water and/or sewer lines are to be installed by the developer and that the developer will establish an escrow account to pay for the cost of connection when water and/or sewer becomes available, or that the installation of the same is not feasible from a technical or economic standpoint; and

j. That on-site, water and/or sewage treatment facilities are not feasible from a technical or economic standpoint; and

k. That the proposed development will consist of no more than one (1) 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.

12. Provided that the factual findings specified in Secs. 7.10.K.10 or 7.10.K.11 are made, the Environmental Appeal Board may reverse, modify or affirm, wholly or partly, the requirement, interpretation or determination made by the PBCPHU or the Environmental Control Officer. In granting an appeal, the Environmental Appeal Board may prescribe appropriate conditions and safeguards consistent with this section. 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 section. 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 a written order.

13. 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 PBCPHU. The PBCPHU may request the Environmental Appeal Board to revoke or amend the order.

14. Except where the relief granted is to exempt an applicant from the requirement to connect to a sanitary sewer under Sec. 7.10.E.1.a, 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 Sec. 7.10.K.12, relief granted under this section 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.

15. The decision of the Environmental Appeal Board shall be final administrative action. Any person who is a party to the proceeding may apply for review to the Circuit Court of Palm Beach County in accordance with the Florida Rules of Appellate Procedure.

L. Inspections. It shall be the duty of the County Health Director to conduct such inspections as are reasonable and necessary to determine compliance with the provisions of this section.

M. Violations, penalties, enforcement. It is unlawful for any person to violate any provisions of this section or any duly constituted order of the Palm Beach County Environmental Control Hearing Board enforcing this section. Such violations shall be punished according to the provisions of Chapter 77-616, Special Acts, Laws of Florida, as amended.

SEC. 7.11 WATER SUPPLY SYSTEMS -- (ENVIRONMENTAL CONTROL RULE II)

A. Purpose and intent. The purpose and intent of this section is to establish minimum standards for the design, construction, installation and operation of all water supply systems from which water is used for human consumption, culinary, sanitary, domestic or other purposes.

B. **Applicability.** The regulations of this section shall apply to both new and existing water supply systems, except as otherwise expressly provided, located throughout the total area of Palm Beach County.

C. **General provisions.**

1. **Water service required.** All buildings used or intended for human occupancy, employment or service to the public shall be provided with piped water under pressure from a water system which complies with the provisions of this section. Bottled water shall not be considered an acceptable substitute for such a water system.

A single water supply system shall be constructed for any new structure, lot or facility containing more than one (1) building with common access parking. This provision shall not affect buildings and water supply systems existing prior to March 14, 1988.

2. **Connections required.** All existing buildings served by non-community, non-transient non-community, and semi-public water supply systems or new private water supply systems shall connect to an approved community water system where such a system has a water main within one hundred (100) feet in a public right-of-way or easement abutting the property on which the building is located.

a. **Exemptions.** A property owner shall not be required to connect to an approved community water system:

(1) If connection requires an extension of the main;

(2) If the main is located across four (4) or more lanes of paved roadway; or

(3) If the utility is unable to provide water.

b. **Health threats.** Notwithstanding the provisions of Sec. 7.11.C.2.a above, if the Health Department determines that a potential or existing health threat exists on property served by a non-community, non-transient non-community or semi-public water system, then the connection shall be made as required pursuant to Sec. 7.11.C.2.c below.

c. Existing non-community or non-transient non-community systems. Establishments or buildings that utilize a non-community or non-transient non-community system and are being constructed, modified, expanded or changed in operation shall connect to an approved community water supply system when said system is available within one thousand (1,000) feet by existing right-of-way or easement to the property. Each foot of water crossing, paved roadway, or sidewalk shall be considered as two (2) feet; the proposed supply shall not be required to cross interstate highway or railroad systems. Property owners connecting to community water supply systems under this subsection shall be required to extend the water main along the public right-of-way utility easements which abut the property.

3. Review for approval. Request for PBCPHU approval of amendments to the Official Zoning Map, site plan, subdivision and building permit matters shall be reviewed in light of the regulations of this section.

4. Fees. All fees charged for the administration of this section shall be in accordance with the fee schedule pursuant to Ordinance No. 78-5 and the amendments thereto.

5. Adoption of state standards. Chapters 17-550, 551, 555, 560, 602 and 10D-4, F.A.C., and all amendments thereto, are hereby incorporated into this section. In the event of a conflict between the provisions of Chapters 17-550, 551, 555, 560, 602 and 10D-4, F.A.C., and this section, the more restrictive provision shall apply.

D. Procedures. The PBCPHU shall review and approve, approve with conditions, or deny any construction or use of any water supply system or facility based on the standards contained in this section. Prior to submission to the PBCPHU, plans involving distribution mains shall be reviewed by the Fire Marshall or by the appropriate fire department official.

1. Construction permits. No person shall install, extend or alter any water supply system or facility including any well, plant, tank, pump station, distribution system, fire line or other pipe or structures without first obtaining a construction permit from the PBCPHU.

a. Evidence of other approvals. Newly proposed community, non-community, non-transient non-community and semi-public water systems shall provide evidence of their ability to secure a water use permit from SFWMD and proper district designation prior to PBCPHU approval.

b. Application and required information. The applicant shall provide the necessary information and design specifications requested and required by the PBCPHU to conduct an adequate review of any proposed activity or construction in addition to that information provided on the DER application forms. The plans, applications and specifications for community, non-community or non-transient non-community water systems shall be prepared by a professional engineer, licensed in the State of Florida.

c. Water supplier's stamp. Any submittal for community water systems, for which the supplier of water is not the applicant but will require ownership, operation or maintenance by the supplier of water, shall require the acceptance stamp of the supplier of water on the plans.

d. Construction permit exemptions. A permit shall not be required for distribution extensions or service connections of less than four hundred (400) feet of one (1) inch pipe, two hundred (200) feet of two (2) inch pipe, one hundred (100) feet of four (4) inch or larger pipe, or road crossing with less than four (4) inch pipe when system capacity is adequate as specified in Sec. 7.11.J.19.

e. Inter-jurisdictional extensions. Any extension of a distribution system within Palm Beach County for which the water supply facility is not located within Palm Beach County, or distribution extension outside Palm Beach County when the water supply facility is located within Palm Beach County, shall require a permit from the PBCPHU and written acceptance of the development from the responsible agency outside the County. During construction, partial releases may be given by the PBCPHU. However, the pressure and leakage test and the disinfection and bacteriological procedures shall be followed in all cases.

2. Approval of water systems. No person shall put into service or use any drinking water system or facility, including any well, plant, tank, pump station, distribution system, fire line or other pipes or structure without first having received written approval from the PBCPHU.

a. Submittal requirements. Upon completion of construction and satisfactory chemical and bacteriological clearance of the water supply system or facility, the engineer of record shall submit to the PBCPHU the following:

(1) Certification of completion,

(2) Record ("as built") drawings on which sampling points must be highlighted,

(3) Chemical and bacteriological sample results, and

(4) If the approval involves a well, a "Well Completion Report."

b. Certification of completion. The Certification of completion for the water supply or facility shall include certification of any accompanying sewerage system and evidence of the acceptance of the system or facility by the supplier of water.

c. **Construction meters.** Uses of construction meters for construction water may be approved by the PBCPHU in cases when accompanying sewer has not been certified if the PBCPHU determines the water facility has been satisfactorily tested and certified by the engineer of record.

d. **Well completion reports.** The Well Completion Report for all water supply wells shall be submitted to the PBCPHU according to Sec. 7.11.J.11.

e. **Water main connections.** The connection of new water mains to existing mains shall not be completed until after the new mains have passed their pressure and leakage test and completed the disinfection and bacteriological clearance procedures. During construction partial releases may be given by the PBCPHU. However, the pressure and leakage test and the disinfection and bacteriological procedures shall be followed in all cases. No water supply system or facility, including any well, plant, tank, pump station, distribution system, or other pipes or structure through which water is delivered to the consumer for drinking or household purposes, except certain community water supply service connections not requiring a permit, shall be put into service or used until such facility has been effectively disinfected and bacteriologically cleared. Sample results shall be submitted to the PBCPHU as follows:

(1) For all water systems, except wells, two (2) consecutive daily samples with the total coliform bacteria count not exceeding one (1) coliform per hundred (100) milliliters of the sample shall be required.

(2) For a community, non-community or non-transient non-community water supply system well clearances, a minimum of twenty (20) consecutive workday samples are required with no more than two (2) samples taken daily. Well sample results for community or non-community water supply system well clearance shall not exceed four (4) coliform per hundred (100) millimeters of the sample in more than ten (10) percent of the samples analyzed.

(3) For a semi-public or private water supply system well clearance, a minimum of three (3) consecutive daily samples are required. The well sample results shall not exceed more than one (1) coliform per hundred (100) millimeters as an average.

(4) Any sample analysis with heavy and/or too numerous to count (TNTC) non-coliform counts shall not be accepted.

(5) Sample results from any water supply facility or well shall not be accepted if more than thirty (30) calender days has elapsed since the taking of the last sample.

E. **Water quality standards.** The following maximum contaminant levels shall not be exceeded in any system to which they apply:

1. **Maximum microbiological contaminant levels.** The following contaminant levels for coliform bacteria are applicable to all drinking water systems including individual water systems:

a. When the membrane filter technique is used, the number of total coliform bacteria shall not exceed any of the following:

(1) One (1) per one hundred (100) milliliters as the arithmetic mean of all samples examined per month.

(2) Four (4) per one hundred (100) milliliters in more than five (5) percent of the samples examined per month.

b. When the fermentation tube method and ten (10) milliliters standard portions are used, coliform bacteria shall not be present in any of the following:

(1) More than ten (10) percent of the portions in any month.

(2) Three (3) or more portions in more than five (5) percent of the sample examined per month.

c. When the fermentation tube method and one hundred (100) milliliter standard portions are used, coliform bacteria shall not be present in any of the following:

(1) More than sixty (60) percent of the portions in any month.

(2) Five (5) portions in more than twenty (20) percent of the samples examined per month.

2. **Primary inorganic chemical contaminant levels.** The maximum contaminant levels for primary inorganic chemicals are applicable to community, non-transient non-community and non-community supply systems, except that the standard for nitrates is applicable to semi-public, as well as community, non-transient non-community and non-community systems.

Contaminant	Maximum Level (Milligrams per Liter)
Arsenic	0.05
Asbestos (medium and long fibers)	7.1 million fibers/liter
Barium	1.0
Cadmium	.005
Chromium	.05
Flouride	4.0
Lead	0.02
Mercury	0.002
Nitrate (as N)	10.0
Nitrite	1.0
Selenium	0.01
Silver	0.05
Sodium	160.0

3. Primary organic chemical contaminant levels. The following maximum contaminant levels for organic chemicals shall apply to community water systems:

Contaminant	Maximum Level (Milligrams per Liter)
CHLORINATED HYDROCARBONS:	
Endrin (1,2,3,4,10, 10-hexa-chloro-6,7-epoxy-1,4,4a,5,6,7, 8,8a,-octa-hydro-1,4,-endo,endo-5,8 -dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6,-hexachloro-cyclohexane, gamma isomer)	0.004
Methoxychlor (1,1,1 - Trichloro-2,2-bis (p-methoxyphenyl) ethane)	0.1
Toxaphene (C H Cl -Technical Chlorinated camphene 67-69% chlorine)	0.005
CHLOROPHENOXYS:	
2,4-D (2,4-Dichlorophenoxyace-tic acid)	0.1
2,4,5 - TP Silvex (2,4,5,-Trichlorophenoxypropionic acid)	0.01

4. **Drinking water turbidity contaminant levels.** The maximum contaminant levels for turbidity in drinking water for community and non-transient non-community water systems measured at a representative entry point(s) to the distribution system(s) or at other points that may be significant to post-precipitation condition or iron precipitate buildup and release is one (1) turbidity unit (NTU), as determined by a monthly average.

5. **Maximum radionuclides contaminant levels.** The following maximum contaminant levels for radionuclides shall apply to community and non-transient non-community water systems:

   a. Radium-226, radium-228 and gross alpha particle radioactivity.

      (1) Combined radium-226 and radium-228---5 pCi/1.

      (2) Gross alpha particle activity (including radium 226 but excluding radon and uranium)---15 pCi/1.

   b. Beta particle and photon radioactivity from man made radionuclides.

      (1) The average annual concentration of beta particle and photon radioactivity from man made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

      (2) Except for the radionuclides listed in the table below in this subsection, the concentration of man made radionuclides causing four (4) millirem total body organ dose equivalents shall be calculated on the basis of a two (2) liter per day drinking water intake using the one hundred sixty-eight (168) hour data listed in "Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupation Exposure" NBS Handbook 69 as amended August, 1963, U.S. Department of Commerce. If two (2) or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed four (4) millirem/year. Average Annual Concentration Assumed to Produce a Total Body organ Dose of four (4) millirem/year.

Radionuclide	Critical Organ	pCi per Liter
Tritium	Total Body	20,000
Strontium-90	Bone Marrow	8

6. **Secondary inorganic chemical maximum contaminant levels.** The following maximum contaminant levels for secondary inorganic contaminants shall apply to community water systems:

Contaminant	Maximum Level (Milligrams per Liter)*
Chloride	250
Color	15 color units
Copper	1.0
Corrosivity	Neither corrosive nor scale forming**
Flouride	2.0
Foaming Agents	0.5
Iron	0.3
Manganese	0.05
Odor	3 (threshold odor number
pH	6.5-9.5 range
Sulphate	250
Total Dissolved Solids at 103-105 degree C	500
Zinc	5.0

* except color, odor, corrosivity and pH

(note continues on next page)

** Assessment of degree of corrosion or scale forming tendencies must be based on historical water characteristics of the system. A Langelier index range of -0.2 to +0.2 should be used as a guideline toward obtaining water stability if calcium carbonate is present. If stabilizers are used, the -0.2 to +0.2 range may not be applicable.

7. **Trihalomethane.** The following maximum contaminant levels are for trihalomethanes (THM's), as set forth in Sec. 7.11.E.8, and water supply systems serving a population of ten thousand (10,000) or more individuals and which add a disinfectant (oxidant) to the water in any part of the drinking water treatment process.

8. **Total trihalomethanes.** Total Trihalomethanes (TTHM) shall include the sum of the concentrations bromodichloromethane, dibromochloromethane tribomomethane (bromoform) and trichloromethane (chloroform) at 0.10 mg/l (MCL).

9. Volatile organics. The following maximum contaminant levels (MCL's) for volatile organics are applicable to all community and non-transient non-community water systems. These concentrations are based on present "state of the art" analytical detection limits as applied to routine sampling, risk analysis, carcinogenicity and chronic toxicity, and may be altered in the future, commensurate with increasing laboratory capability or future data indicating adverse effects on human health.

Contaminant	Maximum Level (Milligrams per Liter)
Trichloroethylene	3
Tetrachloroethylene	3
Carbon Tetrachloride	3
Vinyl Chloride	1
1,1,1 - Trichloroethene	200
1,2 - Dichloroethane	3
1,1 - Dichloroethylene	7
Benzene	1
p - Dichlorobenzene	75
Ethylene Dibromide	0.02 (sample before chlorination)

10. Synthetic organics. Analyses for purgeables, pesticides base neutral extractable and acid extractables shall be performed as specified in Chapter 17-550, F.A.C., as amended from time to time.

F. Water monitoring requirements.

1. Microbiologicals and chlorine residual monitoring. Monitoring of water systems shall be provided by the supplier of water as follows.

a. Community water systems. For community water systems, coliform density samples shall be taken from the distribution system at regular time intervals and in a number proportionate to the maximum population served by the system. Sample locations shall be varied to provide a representative cross section of the water supplied to users. The number and minimum frequency of samples shall be as follows. In addition, a minimum of one (1) representative raw water sample per month shall be taken.

Population Served	Minimum Number of Samples Per Month
25-2,500	2
2,501-3,300	3
3,301-4,100	4
4,101-4,900	5
4,901-5,800	6
5,801-6,700	7
6,701-7,600	8
7,601-8,500	9
8,501-9,400	10
9,401-10,300	11
10,301-11,100	12
11,101-12,000	13
12,001-12,900	14
12,901-13,700	15
13,701-14,600	16
14,601-15,500	17
15,501-16,300	18
16,301-17,200	19
17,201-18,100	20
18,101-18,900	21
18,901-19,800	22
19,801-20,700	23
20,701-21,500	24
21,501-22,300	25
22,301-23,200	26
23,201-24,000	27
24,001-24,900	28
24,901-25,000	29
25,001-28,000	30
28,001-33,000	35
33,001-37,000	40
37,001-41,000	45

Population Served	Minimum Number of Samples Per Month
41,001-46,000	50
46,001-50,000	55
50,001-54,000	60
54,001-59,000	65
59,001-64,000	70
64,001-70,000	75
70,001-76,000	80
76,001-83,000	85
83,001-90,000	90
90,001-96,000	95
96,001-111,000	100
111,001-130,000	110
130,001-160,000	120
160,001-190,000	130
190,001-220,000	140
220,001-250,000	150
250,001-290,000	160
290,001-320,000	170
320,001-360,000	180
360,001-410,000	190
410,000-450,000	200
450,001-500,000	210
+500,000	220

b. Noncommunity and semi-public systems. For non-community and semi-public water systems, a sample for total coliform bacteria shall be taken from the distribution system in each calendar quarter during which the system provides water to the public, except for non-transient non-community water supply systems which shall monitor monthly.

c. Community, non-transient non-community and non-community systems. For community, non-transient non-community and non-community water systems, the following monitoring requirements shall apply:

(1) When the bacteria in a single sample exceeds four (4) coliform per one hundred (100) milliliter or moderate non-coliform count using the membrane filter technique, daily repeat samples shall be collected and examined from the same sampling point until the results obtained from at least two (2) consecutive repeat samples show less than one (1) coliform bacterium per one hundred (100) milliliters and moderate or lower non-coliform count.

(2) When coliform bacteria occur in three (3) or more ten (10) milliliter portions of a single sample using the fermentation tube method, daily repeat samples shall be collected and examined from the same sampling point until the results obtained from at least two (2) consecutive repeat samples show no positive tubes.

(3) When coliform bacteria occur in all five (5) of the one hundred (100) milliliter portions of a single sample using the fermentation tube method, daily check samples shall be collected and examined from the same sampling point until the results obtained from at least two (2) consecutive check samples show no positive tubes.

(4) The location at which the repeat samples were taken pursuant to the above paragraphs of this subsection shall not be eliminated from future sampling without approval of the PBCPHU.

(5) Repeat samples shall be taken within forty-eight (48) hours of the time the supplier of water learns of the failure unless the State Laboratory is closed, in which case seventy-two (72) hours shall be allowed.

d. **Semi-public systems.** For semi-public water systems, the following monitoring requirements shall apply:

(1) Where coliform bacteria in a single sample from these water systems exceed one (1) per one hundred (100) milliliters using the membrane filter technique, at least two (2) consecutive daily repeat samples shall be collected and examined from the same sampling points. Additional repeat samples shall be collected daily or at a frequency established by the PBCPHU until satisfactory results are obtained from at least two (2) consecutive repeat samples. These samples shall show less than one (1) coliform bacteria.

(2) When coliform bacteria occur in one (1) or more ten (10) milliliter portions of a single sample using the fermentation tube method, at least two (2) consecutive daily repeat samples shall be collected and examined from the same sampling point. Additional repeat samples shall be collected daily at a frequency established by the PBCPHU until the results obtained from at least two (2) consecutive repeat samples show no positive tubes.

e. **Well and surface water sources.** Water samples shall be taken from each well and/or surface water source at the following intervals and analyzed for total coliform density as follows:

(1) Monthly for community and non-transient non-community water systems; and

(2) Quarterly for non-community and semi-public water systems.

f. **Calculation of contaminant levels.** The result from all total coliform bacterial analyses performed pursuant to Sec. 7.11.E.1 shall be used to determine compliance with the maximum contaminant level for total coliform bacteria. Repeat samples shall not be included in calculating the total number of samples taken each month.

g. **Special purpose samples.** Special purpose samples, such as those taken to determine whether disinfection practices following pipe placement, replacement or repair have been sufficient, shall not be used to determine compliance with Secs. 7.11.E.1 or 7.11.F.1.a. However, the supplier of water may undertake a complete bacteriological survey of the system, if time permits, in an attempt to meet the average count and five (5) percent standards.

h. **Reporting of residuals.** The free and total chlorine residual or combined residual at all treated water bacteriological sample points shall be measured at the time of sampling and reported along with the results of the bacterial analyses.

2. Primary inorganic chemicals monitoring. Monitoring for primary inorganic chemicals shall be provided by the supplier of water as follows:

   a. Community systems. For community water systems using surface water, two sample analyses for each chemical listed in Sec. 7.11.E.2, 11.E.3 shall be provided on an annual basis. For community water systems and non-transient non-community water supply systems using groundwater, two (2) sample analyses for each chemical listed in Sec. 7.11.E.5 shall be provided once every three (3) years except for systems with chlorination only treatment. Such samples shall be of a composite of all raw water sources and the finished water from a representative point in the distribution system. The distribution sample point shall be moved from year to year to give complete coverage of the distribution system. Only the distribution sample analysis shall be provided when chlorination is the only treatment given the water.

   b. Non-community systems. For non-community water systems, a single analysis of the finished water for each chemical listed in Sec. 7.11.E.2 shall be provided once every five (5) years.

3. Primary organic chemical monitoring. Monitoring for primary organic chemicals shall be provided by community water system suppliers as follows:

   a. Surface water. For water systems using surface water in whole or in part, two (2) sample analyses for the chemicals specified in Sec. 7.11.E.2 shall be provided on an annual basis. Such water samples shall be of a composite of all raw water sources and the finished water from a representative point of the distribution system.

   b. Ground water. For water systems using ground water, two (2) sample analyses shall be provided as in Sec. 7.11.F.3.a above, except that such analyses shall be required only once every three (3) years and systems with chlorination only treatment shall only provide the distribution sample analysis.

4. Physical contaminants monitoring. Monitoring for physical contaminants shall be provided by the supplier of water for community and non-transient non-community water systems as follows:

   a. Chlorine-only treatment systems. For water supplies using a treatment of only chlorination, monthly analyses for turbidity, color and threshold odor number shall be provided on the composite raw and finished water.

   b. Chlorine-plus treatment systems. For water supplies using treatment in addition to chlorination, analyses shall be provided on composite raw and finished water at the following frequency:

Turbidity	Daily
Color	Daily
Threshold Odor: Surface Water Ground Water	 Once a month Quarterly

c. **All systems.** For all water supplies, monthly analyses for turbidity, color and threshold odor number shall be provided from a representative point(s) of the distribution system on a basis of one (1) set of analyses for each twenty thousand (20,000) population served or fraction thereof. Sample point locations shall be moved monthly to ensure a complete coverage of the distribution system. Additional samples may be required based upon complaints.

5. **Radionuclide monitoring in community systems.** Monitoring for radionuclides shall be provided by the supplier of water for community water systems and non-transient non-community water supply systems, as follows:

a. The analysis of water for gross alpha particle activity, radium-226 and radium-228, sampled from the distribution system shall consist of an annual composite of four (4) consecutive quarterly samples or the average of the analyses of four (4) samples obtained at quarterly intervals.

(1) A gross alpha particle activity measurement may be substituted for the required radium-226 and radium-228 analysis provided that the measured gross alpha particle activity does not exceed five (5) pCi/1 at a confidence level of ninety-five (95) percent (1.65 where 6 is the standard deviation of the net counting rate of the sample). In localities where radium-228 is known to be present or may reasonably be expected to be present in drinking water, radium-226 and/or radium-228 analyses shall be provided when the gross alpha particle activity exceeds two (2) pCi/1.

(2) When the gross alpha particle activity exceeds five (5) pCi/1, the same or an equivalent sample shall be analyzed for radium-226. If the concentration of radium-226 exceeds three (3) pCi/1, the same or an equivalent sample shall be analyzed for radium-228.

b. Suppliers of water shall monitor for radionuclides at least once every four years. When an annual record taken in conformance with Sec. 7.11.F.5.a above has established that the average annual concentration is less than half the maximum contaminant level, an analysis of a single sample may be substituted for the quarterly sampling procedure during the next sampling year and during subsequent sampling years for as long as the concentration remains at less than half the maximum contaminant level.

c. A supplier of water shall begin monitoring in conformance with Sec. 7.11.F.5.a within one (1) year of the introduction of a new water source.

d. All community water systems serving more than ten thousand (10,000) population shall monitor composite raw source water in the specified manner as provided for in Sec. 7.11.F.5.

e. Monitoring for compliance with this after the initial period need not include radium-228 except when required by the PBCPHU, provided that the average annual concentration of radium-228 has been assayed at least once using the quarterly sampling procedure required by Sec. 7.11.F.5.a.

f. Community water systems using surface water sources in whole or in part and serving more than one hundred thousand (100,000) persons and such other community water systems as are designated by the PBCPHU shall monitor for beta particle and photon radioactivity by analysis of a composite of four (4) consecutive quarterly samples. Monitoring shall be conducted every four (4) years. Compliance with Sec. 7.11.E.5 may be assumed if the average annual concentration of gross beta particle activity is less than fifty (50) pCi/1 and if the average annual concentrations of tritium and strontium-90 are less than those listed in Sec. 7.11.E.5.b, provided that if both radionuclides are present, the sum of their annual dose equivalents to bone marrow shall not exceed four (4) millirem/year.

g. If the gross beta particle activity exceeds fifty (50) pCi/1, an analysis of the sample must be performed to identify the major radioactive constituents present; and the appropriate organ and total body doses shall be calculated to determine compliance with Sec. 7.11.E.5.b.

6. Secondary inorganic contaminants monitoring in community systems. Monitoring for secondary inorganic contaminants in community water systems shall be provided by the supplier of water as follows:

a. Two (2) samples for the contaminants specified in Sec. 7.11.E.6 shall be provided to the PBCPHU by each supplier using surface water sources, one during the wet season and the other during the dry season.

b. One sample for the contaminants specified in Sec. 7.11.E.6 shall be provided annually to the PBCPHU by each supplier using groundwater sources.

c. Samples for Secs. 7.11.F.6.a and 7.11.F.6.b above shall be taken from a representative entry point to the water distribution system.

7. Trihalomethanes, volatile organics and synthetic organics monitoring. Monitoring for trihalomethanes, volatile organics and synthetic organics shall be provided by the supplier of water for water systems in accordance with, and as specified in Chapter 17-550, F.A.C., and as it may be amended from time to time.

8. **Microbiological and chlorine residual monitoring in consecutive community and non-community systems.** Consecutive community and non-community water systems shall provide microbiological and chlorine residual monitoring in a manner complying with Sec. 7.11.F.1. The PBCPHU may require additional monitoring for primary or secondary contaminants from any consecutive system which, due to its size or other factors, merits such additional monitoring.

9. **Raw water monitoring for volatile and synthetic organics in community systems.** Community water systems shall monitor a composite raw water sample from each wellfield for volatile and synthetic organics including pesticides and herbicides every three years. The first sample results shall be submitted no later than June 1, 1989.

10. **Raw water monitoring in community and noncommunity systems.** Community and non-transient non-community water systems shall monitor for the following from each raw water source or well semi-annually:

Calcium, Ca
Chloride, Cl
Color
Iron, Fe
Nitrate, NO^3
pH (Field)
Total dissolved solids at 103 degree - 150 degree C or
Conductivity
Total hardness, as Co^3

G. **Sampling and analytic methods.**

1. **Sampling procedures.** All water samples required under this section for community, non-community, non-transient non-community and semi-public water systems, including well and main clearance, shall be taken by an employee of a laboratory certified to perform drinking water analyses by the Department of Health and Rehabilitative Services in a accordance with Sec. 403.863, Fla. Stat., and Chapter 10D-41, F.A.C., or an operator certified under Chapter 17-602, F.A.C., or an employee of the PBCPHU. Water samples for private well clearance shall be taken by the licensed well contractor that installed the well or his representative.

2. **Certified laboratories.** All water samples shall be analyzed by a laboratory certified to perform drinking water analyses by the Department of Health and Rehabilitative Services in accordance with Sec. 403.863, Fla. Stat., and Chapter 10D-41, F.A.C..

3. **Methods of analysis.** Analyses conducted to determine compliance with this section shall be made in accordance first with the methods specified in Chapter 17-550, F.A.C., and if not specified then in accordance with "Standard Methods of Examination of Water and Wastewater," 17th Edition, 1989, or methods approved by the United States EPA.

H. **Reporting.** The supplier of water of any community, non-community or non-transient non-community water supply system shall comply with the following reporting requirements in writing. However, the supplier of water is not required to report analytical results to the PBCPHU in cases where a Department of Health and Rehabilitative Services or DER's Laboratory performs the analysis and reports the results to the PBCPHU.

1. **Reporting period.** Except where a shorter reporting period is specified in this section, the results of any analysis required to be made under Sec. 7.11.F shall be reported to the PBCPHU within forty (40) calendar days following the analysis.

2. **Report contents.** Bacteriological results and physical contaminants results shall be reported with the monthly operation reports. The free and total chlorine residual at all treated water bacteriological sample points shall be measured and reported with the monthly operation reports along with the results of the bacterial analyses. When the presence of coliform bacteria in water taken from a particular sampling point has been confirmed by any repeat samples, the supplier of water shall report such confirmation to the PBCPHU within forty-eight (48) hours.

3. **Plant operation reports.** Water plant monthly operation reports shall be submitted to the PBCPHU within fifteen (15) calendar days after the end of that month. Operation reports are required of every community, non-community or non-transient non-community water supply which is required to have a certified operator under Chapter 17-602, F.A.C., or this section. Operation reports shall include water and chemical usage, emergency power operation, information required by this section and other data requested on the operation report forms supplied by the PBCPHU.

4. Inorganic chemicals. If the result of the analysis for primary inorganic chemicals indicates that the level of any contaminant in the finished water exceeds the maximum contaminant level, the supplier of water shall report said fact to the PBCPHU within forty-eight (48) hours of the time it receives the results and shall initiate and complete three (3) additional analyses for the suspect contaminant from the same sampling point within one (1) month. However, when a level exceeding the maximum contaminant level for nitrate is found, a second analysis shall be initiated within twenty-four (24) hours; and if the average of the two (2) analyses exceeds the maximum contaminant level, the supplier of water shall report its findings to the PBCPHU within forty-eight (48) hours of the time it receives the results.

5. Primary organic contaminants. If the results of the analysis for primary organic chemicals indicates the level of any contaminant in the finished water exceeds the maximum contaminant level, the supplier of water shall report said fact to the PBCPHU within forty-eight (48) hours of the time it receives the results and shall initiate and complete three (3) additional analyses for the suspect contaminant from the same sampling point within one (1) month.

6. Turbidity. For community and non-transient non-community water suppliers, if the result of a turbidity analysis indicates that the maximum allowable limit has been exceeded for the finished water, the sampling and measurement shall be confirmed by resampling within one (1) hour. If the repeat sample confirms that the maximum allowable limit has been exceeded, the supplier of water shall report the result to the PBCPHU within forty-eight (48) hours.

I. Notification. The supplier of water of any community, non-community or non-transient non-community water supply system shall comply with the notification requirements of this section.

1. Notification of users. Notices to users given pursuant to this section shall be written in the following manner. The notice shall be conspicuous and shall not use unnecessary technical language, unduly small print or other methods which would frustrate the purpose of the notice. The notice shall disclose all material facts, including the nature of the problem and, when appropriate, a clear statement that a drinking water regulation has been violated and any preventive measures that should be taken by the public. Where appropriate or when requested by the PBCPHU, bilingual notice shall be given. Notice may include an explanation of the significance or seriousness to the public health, an explanation of steps taken by the system to correct any problem and the results of any additional sampling. If the PBCPHU considers it appropriate, notices to the users required by this section may be given by the PBCPHU on behalf of the supplier of water.

2. Notification of PBCPHU. Notification to the PBCPHU shall be by telephone and in writing on the monthly operating report form. For community and non-transient non-community water supplies, if the monthly average of the daily samples for turbidity exceeds the maximum allowable limit or if the average of any two (2) samples on consecutive days, including repeat samples, exceeds five (5) NTU, the supplier of water shall report to the PBCPHU within forty-eight (48) hours and notify the users of the system. For purposes of calculating the monthly average, the repeat sample taken pursuant to Sec. 7.11.H.6 shall be the sample used.

3. Notification of noncompliance. If the average annual maximum contaminant level for gross alpha particle activity, man made radioactivity or total radium on the finished water, as set forth in Sec. 7.11.E.5 is exceeded, the supplier of water shall give notice to the PBCPHU and notify the users. Monitoring at quarterly intervals shall be continued until the annual average concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition to an enforcement action shall become effective. If a community water system fails to perform any monitoring required in Sec. 7.11.F for primary contaminants, or turbidity in the case of surface water suppliers, the supplier of water shall notify users of the system of the failure by inclusion of a notice in all water bills issued after the failure. The notice shall remain in effect until the failure is corrected.

   a. Notification procedure. If a supplier of water is required to notify users of the system because of failure to comply with an applicable maximum contaminant level, the users of the water shall be notified of such failure as follows:

      (1) By publication on not less than three (3) consecutive days in a newspaper of general circulation in the area served by the system. Such notice shall be completed within fourteen (14) days after the supplier of water learns of the failure.

      (2) If the area served by a community or non-transient non-community water system is not served by a daily newspaper of general circulation, notification by newspaper shall be given by publication on three (3) consecutive weeks in a weekly newspaper of general circulation serving the area and by furnishing a copy of the notice to the radio and television stations serving the area served by the system. Such notice shall be furnished within seven (7) calendar days after the supplier of water learns of the failure.

4. Signs. If a non-transient non-community or non-community water system fails to comply with an applicable maximum contaminant level established in Sec. 7.11.E or fails to comply with an applicable testing procedure established in Sec. 7.11.F, the supplier of water shall give notice of such failure to the persons served by the system by fixed signs located at all potable water outlets or connections.

5. **Potential water quality dangers.** In case of breakdown in purification or protective equipment, breaks in main transmission lines, loss of water pressure below twenty (20) p.s.i., abnormal taste or odor, any interruption of water service to users, or any circumstances which could affect the quality of the drinking water, it shall be the duty of the water supplier to notify the PBCPHU within one (1) hour of the occurrence. Notification shall include the following information:

   a. Description of the problem;

   b. Area affected;

   c. Number of connections or users affected;

   d. Estimated duration of problem; and

   e. Method of notification to users.

   Such information shall also be provided in writing on the monthly operation report.

6. **Loss of water or water pressure.** If the water is shut off to the users and/or the water pressure falls below 20 p.s.i., notification shall be given immediately to the users either by written notice or through the media of newspaper, radio or television of the interruption of water service and/or the necessity to boil water. The notice to boil water shall remain in effect until two (2) consecutive days of satisfactory bacteriological sample results have been obtained from the area affected. The PBCPHU shall notify the water supplier when the boil water notice may be rescinded. Where public fire protection is provided by the mains affected by the interruption, the utility shall notify the Fire Marshall or the appropriate Fire Department official that an interruption has occurred or will occur.

J. **Design and construction requirements.** The design and construction requirements of this section shall govern the construction, extension, expansion or use of any community or non-community water supply system. The design standards specified in Chapter 17-550 and Chapter 10D-4, F.A.C., as well as other standards considered as modern sanitary engineering practices shall also apply to the construction, extension, expansion or use of any community or non-community water supply system. The design standards in the following reference works are incorporated into this Code. If any differences in design standards exists, the more stringent standard shall apply.

Technical Volume	Author, Publisher and Address
Manual for Evaluating Public Drinking Water Supplies, Current Edition	U.S. Environmental Protection Agency; Superintendent of Documents, U.S. Government Printing Office; Washington, D.C., 20402
Water Treatment Plant Design, Current Edition	American Society of Civil Engineers, American Water Works Association, and Conference of State Sanitary Engineers; American Water Works Association, Inc.; 66666 West Quincy Avenue, Denver, CO
Recommended Standards for Water Works, Current Edition	Great Lakes—Upper Mississippi River Board of State Sanitary Engineers; Health Education Service; P.O. Box 7283, Albany, NY 12224
Water Quality Treatment, Current Edition	American Water Works Association; 66666 West Quincy Avenue, Denver, CO
Standards of the American Water Works Association, Current Edition	American Water Works Association; 66666 West Quincy Avenue, Denver, CO
Manual of Treatment Techniques of Meeting the Interim Primary Drinking Water Regulations, May 1977	U.S. Environmental Protection Agency, Office of Research and Development, EPA-600, 8-77-055
Water Fluoridation Manual, October, 1985	National Fluoridation Engineer; U.S. Center for Disease Control; Atlanta GA

1. Lead. Lead pipes, solder and flux are prohibited for use in the installation or repair of any drinking water system as of the effective date of this section. This does not apply to leaded joints necessary for the repair of cast iron pipes. Solders and fluxes must contain not more than two-tenths (0.2) of one (1) percent lead and fittings not more than eight (8) percent lead.

2. Number of wells and pumps. A minimum of two (2) drinking water supply wells and pumps shall be provided for each community water system that will serve three hundred fifty (350) or more persons upon completion of construction.

3. Licensing of contractors. All water wells shall be constructed by a water well contractor licensed by the SFWMD in accordance with Chapter 17-21 and Chapter 17-550, F.A.C., and Chapter 40E-3, F.A.C.

4. Vertical well casings. The vertical well casing shall extend at least six (6) inches above ground or into an approved sump pit. Whenever the pump is not set at the vertical casing, the line between the vertical casing and pump shall be considered an extension of the casing and protected from sanitary hazards in a similar manner as the casing.

5. Community, non-community and non-transient noncommunity wells and on-site disposal systems. For community, non-community, and non-transient non-community water systems having on-site sewage disposal with flows greater than two thousand (2,000) gallons per day, as estimated in accordance with Sec. 7.10, wells shall be placed a minimum distance of two hundred (200) feet from the disposal system. However, when on-site sewage disposal flows are less than two thousand (2,000) gallons per day, as estimated in accordance with Sec. 7.10, wells shall be placed a minimum of one hundred (100) feet from the disposal unit. These distances may be increased if required under Sec. 7.10.E.1.a.(1)(a), 10.F.4.n.

6. Semi-public wells and on-site sewage disposal systems. Semi-public wells shall be placed a minimum distance of one hundred (100) feet from any septic tank or drainfield. This distance may be increased if required under Sec. 7.10.E.1.a.(1)(a), 10.F.4.n.

7. Private wells and on-site sewage disposal systems. Private water wells shall be placed a minimum distance of seventy-five (75) feet from any septic tank, drainfield or brine disposal area.

8. Separation of wells from other possible contaminant sources. Community, non-community, non-transient non-community, and semi-public water wells shall be located a minimum distance of:

   a. One hundred (100) feet from other pollution sources, including but not limited to drainage wells, gasoline or other petroleum product underground storage tanks, water softener brine disposal areas or other waste disposal areas except as otherwise provided in Sec. 9.4, Wellfield protection.

   b. Fifty (50) feet from any non-drinking water well, pond, canal, or other body of water.

   c. Twenty-five (25) feet from poisoned soils, including but not limited to, building foundations.

   d. Five hundred (500) feet from any sanitary landfill or recognized hazardous or toxic waste site.

9. Construction of semi-public and private wells. For semi-public and private water system wells, construction shall be in accordance with standards specified in Chapters 10D-4 and 40E-3, F.A.C., as amended or transferred.

10. Waste collection and transmission lines. Any waste collection or transmission line within the defined locations shall be constructed in accordance with current American Water Works Association, Inc., water main standards, including the passing of the appropriate pressure and leakage tests.

11. **Post-construction reporting.** Within thirty (30) days after the completion of the construction or repair of any drinking water well, the water well contractor shall submit a report to the PBCPHU on the approved forms in accordance with the instructions provided thereon.

12. **Protective fencing.** Wells shall be enclosed within protective fencing when access is open to the general public.

13. **Cones of influence.** The cone of influence of a new well or wells serving a community water supply system shall comply with the requirements of the Sec. 9.4, Wellfield protection.

14. **Closure of abandoned wells.** All wells formerly serving water supplies which have been abandoned or which use has been permanently discontinued shall be plugged by filling them from the bottom to the top with neat cement grout, concrete or other method approved by the PBCPHU.

15. **Emergency power systems.** All existing community systems serving three hundred fifty (350) or more persons and all newly proposed community systems shall be equipped with a source of auxiliary power to allow operation of the raw water supply, water treatment units and pumping capacity. In addition, such systems shall be provided with automatic start-up devices except where elevated storage or twenty-four (24) hours per day, seven (7) day per week operation is provided. Such emergency power shall be of a sufficient capacity to operate the water supply facility at one-half (½) design capacity. A minimum fuel supply for one week of continuous operation for each item of auxiliary power shall be maintained at the water treatment plant or under the control of the utility and reserved for the water treatment plant. Any fuel pumps required to transfer the fuel to the auxiliary power units shall be equipped with their own auxiliary power or manual pumping system.

16. **Reserve chlorine supplies.** All community, non-community systems, and non-transient non-community systems, including semi-public systems where applicable, shall maintain a minimum reserve supply of chlorine for emergency conditions. Such reserve shall be figured for fourteen (14) days consumption for systems using gas chlorine and seven (7) days consumption for systems using hypochlorite solution. The consumption shall be based as a minimum on fifty (50) percent of design capacity.

17. **Disinfection.**

    a. **Community, non-community, or non-transient non-community water systems.** Community, non-community, or non-transient non-community water supplies shall be designed to maintain a minimum continuous and effective free chlorine residual of 0.2 mg/l liter or equivalent disinfection if other than free chlorine is used as the disinfection measure throughout the system. When utilizing chlorine in combination with ammonia, a minimum combined residual of 0.6 mg/l liter shall be maintained.

b. Semi-public water systems. The department shall require disinfection if bacteria is discovered in any sample of water.

c. Chlorination facilities. A minimum of two (2) chlorination facilities at the water treatment plant shall be provided for each community water system. Each chlorinator shall be of adequate capacity to supply the total demand of the raw water at the rated capacity of the treatment plant. Where more than two (2) chlorinators are available, adequate capacity to supply the total chlorine demand of the raw water shall be provided with the largest unit out of service. Disinfection other than chlorination will be considered on an individual basis by the PBCPHU.

d. Booster chlorination facilities. Booster chlorination facilities in the distribution system shall be provided along with the necessary controls to maintain free chlorine residuals or equivalent disinfection within the acceptable range of 3.0 mg/1 liter maximum and 0.2 mg/1 liter minimum or a minimum combined residual of 0.6 mg/1 liter when utilizing chlorine in combination with ammonia.

18. Water treatment plant and storage. The approved design capacity shall be adequate to provide for the maximum day demand plus fire flow requirements and maintain the water quality standards specified in this Code.

19. Distribution.

a. Water pressure. The sizing of the distribution lines shall be adequate to provide both of the following without the development of distribution pressures lower than twenty (20) pounds per square inch (psi):

(1) maximum day demand plus fire flow requirements and

(2) maximum hourly demand.

b. Line size. Except for repair or replacement of existing lines, the size of new piping for any community system shall be no less than six (6) inch diameter unless a departure in sizing is justified by hydraulic analysis or historic analysis and future water use for the area and is approved by the PBCPHU based on such circumstances.

c. Responsibility for operation and maintenance. In metered distribution systems, the supplier of water shall be responsible for operation maintenance and repair of new water lines up to and including the water meter.

d. Water main extensions. Any new development or construction connecting to an off-site water main shall provide an extension of that water main along the public right-of-way or utility easements abutting the property.

e. Fire hydrants. Fire hydrants shall be maintained by the owner in accordance with standards established by the "Standards of the American Water Works Association." If a fire hydrant is located downstream of a water meter, the meter shall be designed to provide an adequate flow without excessive pressure drop. Private fire hydrant owners shall be required to request a dedicated private fire line, separate from any drinking water line, where an excessive drop through a metered source exists.

f. Fire flows. The required fire flow from fire hydrants approved for installation prior to the effective date of this section shall be a minimum of five hundred (500) gallons per minute for two (2) hours. Those approved after the effective date of this section shall meet the following requirements.

(1) Residential subdivision. In single-family or duplex dwellings not exceeding two (2) stories in height, the system shall provide capability for fire flow of at least five hundred (500) gallons per minute.

(2) Multi-family dwellings of 3 or more units. Commercial, institutional, or industrial subdivisions, or other high daytime or nighttime population density developments; in new subdivisions which include these developments fire hydrants in the areas of such development shall provide a minimum fire flow of fifteen hundred (1,500) gallons per minute. However, a lower or higher flow may be required by the fire marshall or by the appropriate fire department official according to the Insurance Services Office recommendations.

(3) Minimum fire flows for all systems. All systems shall have sufficient storage or other facilities so that the minimum fire flow will be maintained for at least four (4) hours or the current recommendations of the Insurance Services Office, whichever is greater.

g. Dead-end lines. Dead end lines shall be minimized by the looping of all mains where possible. Where dead end lines occur, they shall be provided with flush hydrants, fire hydrants or blowoffs for flushing purposes.

h. When the distribution demand, as determined in Sec. 7.11.J.19.a above, reaches eighty (80) percent of approved design capacity, the supplier of water shall initiate the procedures for water treatment plant expansion. In the event expansion procedures are not initiated, the system shall be considered inadequate for additional distribution expansion, and approval for additional distribution expansion shall not be granted.

i. When the distribution demand, as determined in Sec. 7.11.J.19.a above, reaches ninety (90) percent of the approved design capacity, the supplier of water shall have the water treatment plant expansion under construction. In the event construction is not underway, the system shall be considered inadequate for additional distribution expansion and approval for additional distribution expansion shall not be granted unless otherwise justified by an engineering report covering the circumstances and approved by the PBCPHU.

20. **Backflow prevention.** The following buildings, establishments or facilities connected to a drinking water supply system shall install and maintain backflow prevention devices complying with current American Water Works, Inc., standards: nursing homes, hospitals, mortuaries, funeral parlors, restaurants, sewage treatment plants, sewage lift stations, swimming pools and buildings using corrosive, toxic, infectious, radioactive or other substances which would be a health hazard if they entered a drinking water supply.

K. **Operation and maintenance.**

1. **Community, non-community and non-transient non-community water supply systems.** The following operation and maintenance requirements shall apply to community, non-community and non-transient non-community water supply systems, and shall also apply to semi-public water supply systems.

a. The supplier of water shall maintain all items of the water supply facility in the approved operational condition.

b. The supplier of water shall operate the water supply facility to produce continuously water meeting the pressure quality requirements of this section.

c. The supplier of water shall introduce no new source of water into the system, and no purification process or protective provisions shall be altered or discontinued or by-passed, except where the supplier of water notifies the PBCPHU and secures approval therefrom.

d. Cross-connection to community, non-community, non-transient non-community and semi-public water supply systems are prohibited. Upon detection of a cross-connection, the supplier of water shall either eliminate the cross-connection by installation of an approved backflow prevention device or discontinue service by providing a physical separation cross-connection.

e. The supplier of water shall establish a routine cross-connection control program and keep a maintenance log on each backflow prevention device connected to its system. Testing and maintenance on each backflow prevention device shall be performed by a certified backflow prevention device tester. The frequency of testing shall be a minimum of once per year or other schedule recommended by the manufacturer and approved by the PBCPHU. The cross-connection control program shall be established no later than December 31, 1988, and a copy of the program submitted to the PBCPHU by March 30, 1989.

f. The supplier of water shall establish a routine testing and maintenance program on each fire hydrant connected to its system. The frequency of testing shall be a minimum of once per year or other schedule recommended by the manufacturer and approved by the PBCPHU.

g. The supplier of water shall conduct the necessary flushing programs to remove lime, sand or other objectionable sediments, matter or material from its water system.

h. Each community, non-transient non-community and Non-community water system shall maintain a distribution map showing the general locations of the water lines and sizes, valves, fire hydrants, flush hydrants and any inter-connections. The scale of the distribution map shall be between two hundred (200) and one thousand (1,000) feet per inch or other scale acceptable to the PBCPHU. A microfilm quality copy of the current edition of this map shall be submitted to the PBCPHU by February 28, of each even numbered year. The PBCPHU may waive the submittal requirements for any water supply in which no significant change has taken place within the distribution system.

2. Community, non-community, and non-transient non-community water supply systems.

a. The supplier of water shall schedule planned water outages during periods of low water usage.

b. The supplier of water shall operate for at least fifteen (15) minutes all emergency power units at least once per week to ensure starting capabilities and continuously for four (4) hours under load once each calendar quarter to ensure dependability.

c. The supplier of water shall provide a certified operator as specified in Chapter 17-602, F.A.C., except that all community systems shall meet at least the State minimum Class "D" certified operator requirements specified in Chapter 17-602, F.A.C., as it may be amended or transferred.

d. The supplier of water shall operate the water supply facility to maintain continuously the free available chlorine residual or equivalent disinfection between 3.0 mg/l and 0.2 mg/l throughout the distribution system, and the total chlorine residual no greater than 5.0 mg/l. When utilizing chlorine in combination with ammonia, a minimum combined residual 0.6 mg/l shall be maintained.

L. Emergency operation.

1. Interconnections. Where two (2) community water supply systems have distribution or transmission lines within one thousand (1,000) feet of each other, they shall provide an emergency interconnection between the two (2) systems when the PBCPHU determines that such a connection would be of benefit to the citizens of Palm Beach County. Such determination shall be based on the possibility of destruction of the water source or treatment system in the event of a disaster and the possible benefits in moving water between the systems. Such interconnecting lines shall be no smaller than the smallest of the two (2) lines being interconnected and shall be provided with at least one valve and any necessary flush points. If the two (2) water suppliers are unable to reach an agreement on the payment for installation of such an interconnection, each supplier shall pay the cost of construction from the supplier's line to the point of connection and shall pay fifty (50) percent of the cost of a meter and meter box if either party desires a meter and meter box. The point of connection shall be at the following:

   a. Municipal limits or franchise boundaries if the supplier's limits or boundaries are adjacent and contiguous.

   b. The midpoint of the municipal limits or franchise boundaries if the limits or boundaries are not adjacent and contiguous. The inter-connection shall be completed within one (1) year after the PBCPHU notifies the systems involved.

2. Flushes, hydrants, taps and other emergency provisions. Any community water system may be required to provide a flush or fire hydrant, water tap or other provision for securing an emergency water service from an existing main at a location that the PBCPHU determines would be of benefit to the citizens of the area. Such determination shall be based in part on the possibility of a prolonged power outage or other disaster which would render individual wells in the area unusable. Other considerations will include the density of individual wells in the area and the distance of the nearest possible potable water supply during an emergency. Such water taps shall be constructed within one hundred twenty (120) days of notification by the PBCPHU. It shall be the responsibility of Palm Beach County to secure an agreement with the community water system for use of that emergency water service.

M. Appeals. Persons aggrieved by a requirement, interpretation or determination of Secs. 7.11.C.2 and 7.11.J of this section made by the PBCPHU or the Environmental Control Officer may appeal to the Environmental Appeal Board by filing a written notice of appeal to the Environmental Control Officer. Only those appeals requesting relief from setbacks under Sec. 7.11.J or requesting an exemption from connection to a public or investor-owned community water supply under Sec. 7.11.C.2 shall be filed.

1. Fee. The notice of appeal shall be accompanied by a certified check or money order in the amount of $100.00 made payable to the PBCPHU, which shall be non-refundable, to defray the cost of processing and administering the appeal.

2. Notice of appeal. 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 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 Secs. 7.11.C.2 or 7.11.J of this section if the appeal were granted. The Environmental Appeal Board may require such additional information as it deems necessary. A separate application must be filed for each site or system considered for an appeal. The burden of presenting supportive facts in the application shall be the responsibility of the person filing the appeal. The person filing the appeal shall have the burden of proving entitlement to relief. The PBCPHU 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) calendar 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 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 issue an order affording the proper relief consistent with the powers granted herein. The findings and order shall be by motion approved by a majority of those members present and voting.

8. In order to grant an appeal authorizing a new or existing well for use in lieu of connecting to a public or investor-owned community water supply, the Environmental Appeal Board must find that:

   a. Satisfactory ground water is available or can be obtained; and

b. The well complies with all setbacks, construction standards and other requirements of this section and Chapters 17-21, 17-550, 10D-4 and 40E-3, F.A.C.; and

c. Every reasonable effort has been made to obtain a water supply from a public or investor-owned community water supplier.

9. In order to grant relief from Secs. 7.11.C.2 or 7.11.J of thisCode and related sections of Chapter 10D-4, F.A.C., the Environmental Appeal Board must find that:

(1) Satisfactory ground water can be obtained; and

(2) Every reasonable effort has been made to comply with the requirements of this section and Chapter 10D-4, F.A.C., in the location of the well; and

(3) The proposed well complies with all construction standards and other requirements of this section and Chapters 17-21, 17-550, 10D-4 and 40E-3, F.A.C.; and

(4) Advance notice shall be given to future purchasers of the semi-public and/or non-community water systems that the system shall be connected to a public or investor-owned community water supply when such a supply becomes available, and that the purchaser has certain operational requirements until such connection is completed.

10. Provided that the factual findings specified in Secs. 7.11.M.8 or 7.11.M.9 above are made, the Environmental Appeal Board may reverse, modify or affirm, wholly or partly, the requirement, interpretation or determination made by the PBCPHU or the Environmental Control Officer. In granting an appeal, the Environmental Appeal Board may prescribe appropriate conditions and safeguards consistent with this section. 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 section. 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 a written order.

11. If there is a change in the facts or circumstances supporting a request for relief after an order granting relief has been issued, then the applicant shall notify the PBCPHU. The PBCPHU 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 public or investor-owned community water supply under Sec. 7.11.J, any relief granted shall automatically terminate upon the availability of a community water supply to the lot or parcel. Upon the request of the PBCPHU or the Environmental Control Officer, the Environmental Appeal Board may modify or rescind an order granting relief from the requirements to connect to a public or investor-owned community water supply under Sec. 7.11.C.2 if the conditions under which the appeal was granted no longer exist. Unless otherwise provided in an order issued pursuant to Sec. 7.11.M.8, relief granted under this section 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 person who is a party to the proceeding may appeal to the Circuit Court of Palm Beach County in accordance with the Florida Rules of Appellate Procedure.

N. **Violations, penalties, enforcement and inspections.**

1. **Violations and penalties.** It is unlawful for any person to violate any provision of this section or any duly constituted order of the Palm Beach County Environmental Control Hearing Board enforcing this section. Such violations shall be subject to the enforcement and penalty provisions of Chapter 77-616, Special Acts, Laws of Florida, as amended, and Palm Beach County Environmental Control Ordinance No. 78-5, as amended.

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 section.

SEC. 7.12 PARK AND RECREATION STANDARDS.

A. **Purpose and Intent.** The purpose and intent of this section is to ensure the provision of parks, on-site recreation areas and facilities in proportion to the demand created by development. By requiring such facilities, it is the intent of this section to ensure the provision of functionally-adequate, aesthetically pleasing and safe parks and recreation areas. The specific objectives of this section are as follows:

1. Establish recreational standards for the development of land within unincorporated Palm Beach County;

2. Aid in the coordination of land development in Palm Beach County in accordance with orderly physical patterns;

3. Provide public and private parks and recreation areas in accordance with the objectives of the Recreation Open Space Element of the Comprehensive Plan; and

4. Ensure to the residents of residential development that necessary recreational improvements have been provided.

B. **Applicability**. The standards of this section shall apply to all development in unincorporated Palm Beach County, or existing development that is modified to the extent that it includes residential uses or site design features that were not specifically shown on the previously approved plans. All recreation areas established by this section shall be continuously maintained according to the standards of this section.

C. **Community and Neighborhood Park Recreation Standards.**

1. **Countywide regional, beach or district parks and preservation conservation areas.** Where a planned beach, regional, district park, or preservation/ conservation area is shown in the CIE of the Comprehensive Plan, and a development proposed in an application for development permit is located in whole or in part within the planned beach, regional, district park, or preservation/conservation area, such area shall be reserved for a period not to exceed two (2) years during which time Palm Beach County shall either acquire the land or release the reservation. The time period initiating the reservation shall commence with the filing of an application for development order.

2. **Required recreational areas.** In any proposed residential development, adequate provisions shall be made for recreation areas to accommodate the neighborhood and community park level recreational needs of the residents of the development. The recreation areas shall consist of a developed recreation area parcel and include recreational facilities of a type consistent with the needs of the residents. The recreation parcel shall be located so as to provide convenient pedestrian access for the residents of the development. The recreation area shall be reserved by the developer for the perpetual use of the residents of the development. The owner of the land or a property owner's association, and their successors in interest shall be responsible for the perpetual maintenance of the recreation area. In addition, the recreation area shall comply with the following standards. The recreation area shall be the equivalent of 2.5 acres of developed land per 1,000 people population, based on 2.4 people per unit. Development of recreational facilities shall be of a type suitable for general neighborhood or community park use. The dollar amount to be spent on recreational improvements per acre shall be no less than seventy-five (75) percent of the County's cost per acre for developing community park type facilities as indicated by the Community Park Impact Fee Schedule or current County cost per acre to develop community and neighborhood park facilities. The recreational tract(s) location shall be determined at the time of final site plan/subdivision plan submission. In the event of a phased development each subsequent site plan shall show how minimum recreation requirements are being satisfied. The minimum dollar amount to be spent on recreation facilities shall be determined based on the Community Park Impact Fee Schedule in use at the time of the site plan submission. The requirements contained in this section may be waived if adequate guarantee is provided prior to platting that the dollar value of the recreation areas required of this section shall be provided.

3. **Determination.** At the option of the Parks and Recreation Department the developer may, in lieu of or in combination with Sec. C.2., contribute the dollar value of the total recreational area requirement of this section for the entire development at the time the first plat is submitted for recording. Land value shall be based on the community park impact fee value per acre in use at the time the first plat is submitted for recording, or on a County approved certified MSA appraisal of the average value of the land in the development at the time of first plat. All such funds collected shall be held in a non-lapsing Park and Recreation Trust Fund for the acquisition and improvement of community or neighborhood parks according to the provisions of Sec. C.4.

4. **Cash-out option.** Monies deposited by a developer pursuant to this section shall be expended within a reasonable period of time for the purpose of acquiring and developing land necessary to meet the need for neighborhood or community parks created by the development in order to provide a system of parks which will be available to and sufficiently benefit the residents of the development. In accordance with the descriptions of neighborhood and community parks contained in the Comprehensive Plan, monies deposited by a developer pursuant to this section shall be expended to acquire or develop land for neighborhood and community park purposes not farther than five (5) miles from the perimeter of the development.

5. **Other.** The Board of County Commissioners shall establish an effective program for the acquisition of lands for the development of community parks in order to meet, within a reasonable period of time, the existing need for community parks which will be created by further residential developments constructed after the effective date of this section. The annual budget and capital improvement program of Palm Beach County shall provide for appropriation of funds as may be necessary to carry out Palm Beach County's program for the acquisition of land for community parks. The funds necessary to acquire lands to meet the existing need for County parks must be provided from a source of revenue other than from the amount deposited in the Trust Fund.

6. **Open space credit.** Where developed recreational facilities are provided within lands required or credited for other open space purposes pursuant to this Code, (i.e., buffer areas, natural preserves, utility easements, rights of way, drainage or water management tracts), only credit for the cost of approved facilities may be applied towards the recreation area requirement of Sec. C.2, and only if the facilities are reserved for the use of the residents of the development.

7. **Other credits.** Where private membership clubs, golf courses, and other recreational related facilities exclusive of a property owners association are provided in conjunction with the development, credit of fifty (50) percent of the requirement of Sec. C.3 for recreation areas on a plat by plat basis for the entire development may be applied for those facilities which are available for the use of the residents of the development.

D. **Phasing**. Any development providing residential land use shall follow one of the following phasing plans:

1. **Single phasing**. When the development is to be constructed in a single phase, or where each phase will provide recreational facilities specifically for the residents of that phase, then the recreational site(s) for that phase shall be site planned, or platted, concurrent with that phase of construction. No more than forty (40) percent of the building permits for residential units shall be issued for the phase until the recreational improvements have been completed in their entirety.

2. **Multiple phasing**. When the development is to be constructed in multiple phases and one or more required recreational site(s) is/are intended to serve the residents of two (2) or more phases of the development, then the following sequence must be adhered to:

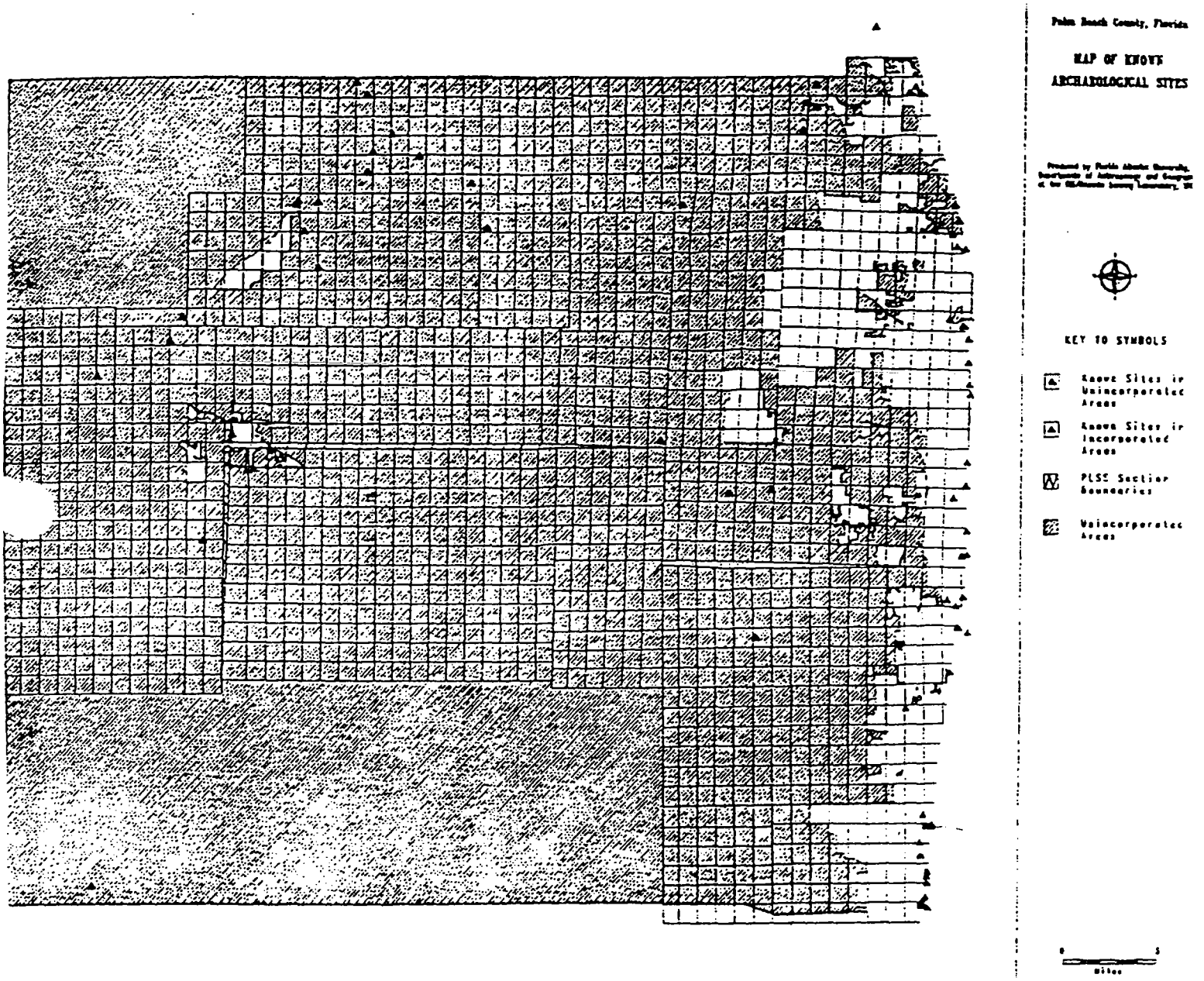
   a. The recreation site(s) shall be site planned concurrent with the site plan for the first phase of residential development for which the recreational site will serve.

   b. The recreation site(s) shall be platted concurrent with the plat for the residential development phase they will serve.

   c. No more than forty (40) percent of the building permits for residential units shall be issued for the phase until the recreational improvements have been completed in their entirety.

SEC. 7.13 ARCHAEOLOGICAL RESOURCES PROTECTION

A. **Purpose and intent**. It is hereby declared that the protection, enhancement and examination of significant archaeological resources is in the interest of the health, safety and welfare of the people of Palm Beach County. It is acknowledged that within Palm Beach County there exist sites which are of significant archaeological value as prehistoric, historic and cultural resources. A map identifying known archaeological sites has been prepared by a qualified archaeologist and is adopted as part of this section.


Palm Beach County, Florida
MAP OF KNOWN
ARCHAEOLOGICAL SITES
KEY TO SYMBOLS
Known Sites in Unincorporated Areas
Known Sites in Incorporated Areas
PLSS Section Boundaries
Unincorporated Areas

The purposes of this section are to:

1. Establish a procedure for review of development proposals on lands which have been identified as containing archaeological resources and which will be applicable to lands identified by the predictive model when added to this section by amendment;

2. Establish a method to review the potential archaeological value of previously unidentified sites after the discovery of prehistoric and historical artifacts, skeletal or fossilized human remains, or non-human vertebrate fossils during development;

3. Establish a mechanism to protect, when appropriate, resources of significant archaeological value identified pursuant to this section that are deemed important by a qualified archaeologist to the prehistory or history of the County, State or Nation; and,

4. Facilitate protection of resources of significant archaeological value without substantially delaying development.

A. Applicability. This section is applicable in the unincorporated area of Palm Beach County and regarding County owned property in municipalities unless otherwise regulated by municipal archaeological protection regulations and shall apply to:

1. All parcels of land which are identified as archaeological sites on the map entitled "Map of Known Archaeological Sites";

2. A parcel on which a previously unidentified artifact or any human skeletal or fossilized human remain or non-human vertebrate fossils of significant archaeological value is found during site development or during any other activity which may disturb an archeological site; and,

3. All applications for Type III Excavation.

B. Development subject to archaeological review. Development shall be subject to this section as follows:

1. Parcels on the map of known archaeological sites and proposals for type III excavation. Owners of parcels located on the Map of Known Archaeological Sites or owners of parcels requesting approval for Type III Excavation must receive a Certificate to Dig prior to issuance of a development order.

2. Previously unidentified archaeological sites discovered during development. When one or more artifacts or human skeletal or fossilized remains or non-human vertebrate fossils which were previously undiscovered are found on a site during development or during other activity disturbing the site, all development or disruptive activity directly over the find shall cease. Before any further development or disruptive activity continues, the following procedure shall apply:

   a. The area directly over the find shall be staked by the property owner or agent of the property owner, contractor or subcontractor, or other party discovering the potential find;

b. Within one (1) working day of discovering the potential find, the Department and, if applicable, the property owner shall be notified;

c. Within three (3) working days, the County Archaeologist shall inspect and evaluate the site for the purpose of determining whether artifacts or human skeletal or fossilized remains or non-human vertebrate fossils are located on a site. If the qualified archaeologist determines a significant archaeological resource is on site or likely to be on site, the Director of the Planning, Zoning and Building Department shall issue an order suspending construction and define the area where the order suspending construction applies, based upon the archaeologist's assessment. Such order does not have the effect of a stop work order and shall not stop construction activity not directly impacting the defined potential archaeological site;

d. The County Archaeologist shall evaluate the significance of the archaeological find and send a written Archaeological Evaluation Report to the property owner and Director of the Department of Planning, Zoning and Building postmarked within seven (7) working days from issuance of the suspension order; and,

e. In the Archaeological Evaluation Report, the County Archaeologist shall require an application for a Certificate to Dig be prepared if the archaeologist determines the site contains artifacts of significant archaeological value. If the County Archaeologist determines that there is no reasonable possibility that artifacts of significant archaeological value are contained on the site, the archaeologist shall make such a finding to the Department in the Archaeological Evaluation Report and the Department shall immediately lift the suspension order.

3. Sites containing human skeletal remains. If human skeletal remains are found, then Section 872.05, Florida Statutes (1989), as amended from time to time, controls.

C. Certificate to dig.

1. Application. Owner of parcels required by 7.13.C., above, (Development Subject to Archaeological Review, Parcels on the Map of Known Archaeological Sites and Proposals for Type III Excavation, and Previously Unidentified Archaeological Sites Discovered During Development), to make application for a Certificate to Dig to the Department shall make such application prior to the issuance of a development order. A copy of the application shall be forwarded by the Department to the Palm Beach County Historical Commission. The application for the Certificate to Dig shall be made on a form available from the Department. Only one (1) Certificate to Dig shall be required to develop a site unless additional resources are found during site development.

2. **Report contents of a certificate to dig.** The application for a Certificate to Dig shall be subject to a fee established by the Department, governed by Section 7.13.D.3.d., below, and include a report prepared by a qualified archaeologist. The report shall at minimum contain a documented search of the Florida Master Site Files, a brief history of the area, an archaeological survey and field inspection performed in a professionally acceptable manner, an assessment of the archaeological significance of the site, and a proposed plan for management.

   All reports submitted to the Department on properties determined to be of archaeological significance shall include the preparation of a Florida Master Site File (FMSF) form, which shall be forwarded by the Department to the Division of Historical Resources of the Florida Department of State. Copies of FMSF forms shall be available at the Department.

3. **Standards for issuance of a certificate to dig.** Within three (3) working days of receiving an application, the Department shall make a determination of the completeness of the application. If the application is determined to be incomplete, the Department shall request additional information by certified mail. When the application is complete, the Department shall prepare its evaluation of the application and notify the applicant of its findings within ten (10) working days. Evaluation of the application by the Department shall be based upon guidelines in this section, recommendations included in the archaeologist's report, recommendations of the Palm Beach County Historical Commission and the recommendation of the County Archaeologist, if required. The Department's evaluation shall do one of the following:

   a. If the property is determined to have no significant archaeological value or insignificant value, the Department shall, if applicable, issue the Certificate to Dig, or lift the construction suspension order, if applicable, and the development may proceed; or

   b. If the property is determined to have significant archaeological value, the Department shall issue a Certificate to Dig with or without conditions that are deemed necessary to protect or permit the excavation of any part of the site found to be of significance, including conditions regarding site design. In order to protect archaeological resources of significant value, the Department may require the applicant to do one or more of the following as part of receiving the Certificate to Dig:

      (1) Preserve the archaeological site within open space of the development;

      (2) Redesign the development to accommodate preservation of all or a portion of a site containing the significant archaeological resources;

      (3) The property owner may voluntarily fund or seek funding for excavation of the resource, if agreed to by the County.

c. If the County finds it is impossible to adequately preserve the significant archaeological resource using the standards and procedures in b., above, and the proposed development plan would adversely affect any significant archaeological resources found on the site, the Department may delay issuance of a Certificate to Dig for up to eight (8) weeks after the submittal of a completed application so that either:

(1) Appropriate archaeological excavation may be conducted to properly extract and interpret the significant archaeological resources found on the site; or

(2) The County may approach any recognized historic preservation agency to seek alternate solutions; or

(3) A buyer may be found to purchase a site for either site preservation or in order to allow detailed excavation, analysis and interpretation of the site.

d. **Fee for application for certificate to dig.** The Department shall charge a fee covering the direct and indirect costs associated with reviewing an Application for a Certificate to Dig, issuing the certificate and monitoring compliance with the certificate. Fees for the issuance of a Certificate to Dig shall be added to the Department Fee Schedule by resolution approved by the Board of County Commissioners.

D. **Map of known archaeological sites.** A map of known archaeological sites is attached to this section as Exhibit "A" and is adopted as part of this section. The above referenced map may be amended by resolution or ordinance adopted by the Board of County Commissioners pursuant to Section 125.66, Florida Statutes. The map shall be amended upon determination by the County that additional sites of significant archaeological value have been discovered. At a minimum, the map and the Florida Master Site Files shall be reviewed annually for possible map amendment.

E. **Appeals.** Within forty-five (45) days of a written decision by the Department, an aggrieved party may appeal the decision by filing a written notice of appeal with the Clerk of the Board of County Commissioners. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within forty-five (45) days of the filing of the appeal or the first Board of County Commissioners meeting which is scheduled, whichever is later in time, the Board of County Commissioners shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the Department. The applicant shall be notified by certified mail, return receipt requested, of the date, time, and place of such hearing and shall be provided an opportunity to present testimony and evidence and to be represented by counsel or an agent. Nothing contained herein shall preclude the Board of County Commissioners from seeking additional information prior to rendering a final decision. The decision of the Board of County Commissioners shall be in writing and a copy of the decision shall be forwarded to the appealing party. An applicant may appeal a final decision of the Board of County Commissioners within thirty (30) days of the rendition of the decision by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

F. **Procedure for addressing violations, hearing and penalties.** Upon detection by the County that a property owner, agent of property owner, contractor or subcontractor has violated this section, the County shall notify the violator(s) and the property owner, if applicable, that a hearing has been set before the Code Enforcement Board. The notice, hearing and fines shall occur pursuant to Chapter 8.5 of the Code of Laws and Ordinances of Palm Beach County. Further, if the Code Enforcement Board finds that a willful violation of this section has occurred, the County shall fine the violator a fine of up to five hundred dollars ($500.00) per day or impose imprisonment in the county jail not to exceed sixty (60) days or by both fine and imprisonment as provided in Section 125.69, Florida Statutes. In addition to the sanctions contained above, the County may take any other appropriate legal action, including, but not limited to, requests for temporary and/or permanent injunctions to enforce the provisions of this section. It is the purpose of this section to provide additional cumulative remedies.

SEC. 7.14 SIGNAGE.

A. **Purpose and intent.** The purpose and intent of this section is to establish standards for the placement and use of signs, symbols, markings, or advertising devices within unincorporated Palm Beach County. These standards are designed to protect the health and safety of persons within Palm Beach County and to assist in the promotion of tourism, business and industry by providing standards which allow and encourage creativity, effectiveness, and flexibility in the design and use of such devices, and minimize the unreasonable restraint upon the needs of the community, while protecting the aesthetic appearance of Palm Beach County.

B. **Applicability.** The provisions of this section shall apply to all signs unique property control number in unincorporated Palm Beach County, unless specifically exempted by Sec. 7.14.E. (Exemptions). These regulations apply individually to all parcels of land whether or not the parcels are included in a development of a larger scale. All signs shall be referenced in relation to the parcel of land on which it is located and each parcel shall be identified by a parcel control number.

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

1. **General.** Previously permitted signs and sign structures which do not meet the provisions of this Code with permanent locations shall be considered nonconforming uses or structures subject to Article 13 of this Code, except:

   a. A sign face may be replaced with a valid permit but not enlarged.

   b. Permits for lighting and electrical alterations may be issued.

   Other than as outlined above, a sign structure may not be enlarged, altered or moved without the entire sign being brought into compliance with these regulations.

2. **Electronic Message Center Signs.** To forward the purpose of this Code, it is the intent of the Board of County Commissioners that all electronic message center signs conform to the standards herein. Within thirty (30) days of the effective date of this Code, all electronic message center signs shall comply with the standards of Sec. 7.14.I.6.d., except the signs shall not be required to be moved to meet locational standards, or reduced in area, and existing reflectorized lamps and lamps over thirty (30) watts may continue to be used until they require replacement.

   Any relocation, enlargement or other alteration to electronic message center signs shall require Board of County Commissioners' approval pursuant to Sec. 7.14.I.6.d.

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

D. **Application Procedure**. Only approved signs or signs specifically exempt under this Code shall be erected. Signs shall be erected and maintained only as permitted and, unless exempt from permitting, signs not erected and maintained pursuant to a valid permit are illegal. All illegal signs shall be subject to Sec. 7.14.P.

E. **Exemptions**. The following shall be exempt from the provisions of this Code and may be erected without a permit:

1. Signs erected by a governmental body governing vehicular and pedestrian travel on public and private rights-of-way.

2. Safety, directional and highway memorial signs placed in public rights-of-way erected by a governmental body.

3. Temporary signs denoting architect, engineer, landscape architect, planner, or contractor on a construction site, not exceeding thirty-two (32) square feet in surface area and twelve (12) feet in height, and provided it is immediately removed upon the issuance of a Certificate of Occupancy or abandonment of work.

4. One (1) address sign for each principal building or use on premises, not exceeding one (1) square foot in surface area, showing only the numerical address designation on the premises upon which they are maintained. Signs shall be installed and maintained pursuant to Palm Beach County Building Security Code.

5. Off-premises signs incorporated into county owned, contracted or operated bus shelters, pursuant to the county contract dated August 22, 1989, as may be amended. All existing county owned, contracted or operated bus shelters with signage shall be considered nonconforming signs.

6. Outdoor temporary display of merchandise under a structural canopy for special promotion and not exceeding ten (10) days.

7. Signs incorporated into machinery or equipment by a manufacturer or distributor, which identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily fixed to vending machines, menu boards and gasoline pumps.

8. Words or letters printed on an umbrella affixed to a permanent table where the use at which the umbrella is located is lawfully allowed.

9. Public warning signs on private property to indicate the dangers of trespassing, swimming, no parking, animals or similar hazards. These signs shall be no larger than four (4) square feet unless specifically provided for by law. Signs shall be spaced a minimum of two hundred (200) feet unless superseded by Florida Statutes.

10. Temporary search lights for ten (10) days, four (4) times a year per each business per location and with Federal Aviation Administration approval.

F. **Prohibited signs**. The following signs are prohibited:

1. Motion picture and video mechanisms in conjunction with any outdoor advertising or any advertising statuary used in such a manner as to permit or allow the images to be visible on or from any public street or sidewalk.

2. Signs which produce noise or sounds capable of being heard even though the sounds produced are not understandable sounds. This shall not be construed to prohibit voice units at menu boards.

3. Signs which emit visible smoke, vapor, particles, or odor.

4. Signs or other advertising materials as regulated by this section that are erected at the intersection of any street or in any street right-of-way in such a manner as to obstruct free and clear vision; or at any location where, by reason of position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device; or which makes use of the words "stop," "look," "drive-in," "danger," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead,or confuse vehicular traffic.

5. Signs in safe distance triangles.

6. Signs erected, constructed, or maintained so as to obstruct, or be attached to any fire fighting equipment, unless approved or required by the Fire Marshall.

7. Signs with any lighting or control mechanism which causes radio or television or other communication interruption or interference.

8. Flags, banners, streamers, twirling, "A" type, sandwich type, sidewalk or curb signs, blank copy signs and unanchored signs, except where expressly provided for in this section.

9. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means. This prohibition shall not be construed to prohibit electronic message center signs.

10. Moving or stationary advertising signs if displayed on a vessel on the waterways.

11. Outdoor advertising of any kind or character where any live animal or human being is used as part of the advertising and is visible from any public street or public place. This shall not be construed to include religious displays.

12. Any sign which exhibits thereon any obscene material.

13. Any snipe sign.

14. Any signs attached to trees, utility poles, trailers, and any other unapproved supporting structures.

15. Portable signs, except where expressly provided for in this section.

16. Roof signs.

17. Flashing signs and beacons, except for highway or other warning lights operated or required by a governmental agency. Also prohibited are signs with chasing borders and twinkling lamps visible from public or private rights-of-way. This shall not be constructed to prohibit time and temperature signs or electronic message center signs.

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

19. Signs placed upon benches, bus shelters or waste receptacles, except as may be authorized by a governmental agency or superseded by state statutes.

20. Signs that are in violation of the building code or electrical code adopted by the county.

21. Merchandise displays located inside buildings, oriented to outside, within one (1) foot of a window, and visible through the glass window.

22. Projecting signs, except where expressly permitted in this section.

G. Signs requiring a special permit from Zoning Division. These permits shall be obtained by application made on the appropriate form, accompanied by a fee and approved by the Zoning Division. As specified below, a building permit may also be required.

1. Temporary signs announcing a campaign drive or civic event. These signs shall be allowed sixty (60) days prior to the campaign drive or event, shall not exceed thirty-two (32) square feet and shall be removed within thirty (30) days following the campaign drive or event and shall not be placed on public property.

2. Temporary sale sign. One (1) temporary, on-site, non-illuminated freestanding sign announcing a legally permitted temporary sale shall be permitted for thirty (30) days. This sign shall not exceed twenty (20) square feet in sign area, shall not exceed eight (8) feet in height above finished grade and shall be located at least five (5) feet from all base building lines and comply with all regulations of Sec. 6.4.D.

3. Temporary signs for grand openings. A temporary sign for a grand opening shall be permitted, one (1) per business per location, including banners, for no longer than ten (10) days, consistent with the standards of Sec. 7.14.I.6.

4. **Temporary residential development signs.** A special permit shall be required for temporary on-premises freestanding residential development sale signs. The special permit shall be permitted for three (3) years or until eighty (80) percent of the development is sold-out. Allowable temporary signage shall be calculated by utilizing the standards of Sec. 7.14.I.6 and by using the C/R classification on Table 7.14-1.

5. **Temporary balloon type signs.** The following regulations shall apply to all temporary balloon type signs:

   a. The leading edge of the balloon on the ground shall be set back a minimum of fifteen (15) feet from all base building lines;

   b. The balloon itself shall be no higher than thirty (30) feet from base to top and no more than thirty (30) feet in width;

   c. If placed on buildings, balloons shall only be allowed on one or two story buildings and maximum height shall not exceed sixty (60) feet from the ground;

   d. Balloons shall be erected no closer than one (1) mile in any direction from any other legally permitted balloon;

   e. No parcel or development shall be issued more than two (2) permits in any calendar year. The maximum duration of any permit shall be for ten (10) days. There shall be a minimum of thirty (30) days between subsequent permits from the day the balloon is removed;

   f. Balloons shall not be located in any required vehicular use area and shall comply with the parking code and all other Palm Beach County codes;

   g. Balloons shall only be allowed in the CG-General Commercial, PO-Public Ownership, or CRE-Commercial Recreation zones;

   h. Only cold air shall be used in the balloons, no hazardous gas or air;

   i. No balloon shall be allowed in any right-of-way; and,

   j. A copy of the following shall be provided to the Zoning Division for processing the special permit application:

      (1) Legal description, property control number and address of location;

      (2) Written permission of property owner or owner's designated agent;

      (3) Cold air balloon installation occupational license;

      (4) Evidence of installer's liability and property damage insurance;

(5) Copy of a survey or site plan showing location of balloon, centerline of any rights-of-way and demonstrating compliance with these regulations; and,

(6) a photograph of the balloon.

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

1. Temporary political sign. A temporary political sign not more than thirty-two (32) square feet, may be erected on private land in any zoning district, for not more than sixty (60) days prior to any election, if removed within thirty (30) days after the election and constructed so as not to create any hazardous or dangerous conditions to the public.

2. On-premises directional signage. On-premises directional signs for individual parcels shall be permitted for communicating directions for vehicle maneuvering or location of site features. The total surface area shall not exceed eight (8) square feet.

3. Window signs. Window signs shall not exceed twenty five (25) percent coverage of the glass area. All glass doors shall be included in the calculation for total glass area. Any sign on display or hung in front of or within one (1) foot behind the window is considered a window sign.

4. Vehicle signs. The purpose and intent shall be to regulate and limit vehicles with advertising from continuously parking adjacent to a right-of-way.

a. Unless there is only one (1) row of parking, between the building and the right-of-way, vehicles with advertising shall not park in the row of parking or any area adjacent to the right-of-way.

(1) The following are exempt:

(a) vehicles with advertising signs, when the vehicles are customer trade, making deliveries or vehicles used in conjunction with a special promotion with a valid permit;

(b) vehicles with advertising signs with letters less than eight (8) inches in height and less than eight (8) square feet in area; and,

(c) vehicles in an industrial zone parked in vehicular use areas.

5. Real estate signs. A temporary sign conveying instructions with respect to the sales, rental, or lease of a lot, premises, dwelling, structure or a combination thereof, shall relate only to the premises upon which the sign is located, and shall be exempt if in compliance with the following standards:

a. One real estate sign per right-of-way frontage on which the premises abuts shall be permitted on residential parcels of less than five (5) acres. Signs shall not exceed eight (8) square feet and a maximum height of five (5) feet;

b. One real estate sign per right-of-way frontage on which the premises abuts shall be permitted on residential parcels of five (5) acres or more and all non-residential parcels. Signs shall not exceed thirty-two (32) square feet and a maximum height of twelve (12) feet; and

c. The minimum setback of the sign shall be five (5) feet from all base building lines.

6. Mobile vendor sign. Signage for vendors shall be limited to one sign, with a maximum sign face area of ten (10) square feet. The sign shall be no closer to any property line than the vendor's display. Banners, pennants, balloons or flags shall be prohibited. If the mobile vendor vehicle signage is greater than eight (8) square feet then the vendor shall not be permitted any additional signage.

I. On-site signs subject to special standards. The following on-site signs shall be permitted by building or special permit and subject to the following special standards.

1. Electrical sign. An electric sign in any zoning district, shall be subject to the technical requirements contained in the Palm Beach County Electrical Code.

2. Entrance wall signage. No sign shall be placed on fences or walls in any zoning district except a development identification sign located at an entrance and placed on a entrance wall in that development. An entrance wall with signage shall be for the purpose of identifying the development and shall be subject to the following standards:

a. Entrance wall signage shall not be located in any safe distance triangle;

b. Entrance wall signage shall be located a minimum of five (5) feet from any and all base building lines and shall be within 100 feet of any access point;

c. If the entrance wall sign exceeds eight (8) feet in height, it shall meet the height and setback standards in the zoning district in which it is located; and

d. Lettering shall be no greater than twenty-four (24) inches in height and the sign surface area shall not exceed sixty (60) square feet. The copy or logo shall only identify the development and shall be affixed on the face of a wall or fence.

3. Freestanding flagpole and flag size.

a. There shall be a maximum of three (3) flags allowed on any one parcel. Flagpoles require a building permit, but flags flown from an approved structure do not require a permit.

b. The maximum height of any flagpole shall not exceed fifty (50) feet.

c. A flag pole suspended from or mounted on a building shall not exceed fifteen (15) feet above the highest point (peak) of the building or structure, not including structures exempt from this Code's height limits, such as spires or steeples.

d. The setback for a flagpole shall be one hundred and three (103) percent of the flag's largest possible dimension.

e. The maximum height of a flag shall be thirty (30) percent of the total height of the flagpole. The length of the flag shall be no greater than two (2) times its maximum allowable height.

f. A flag not attached to a flag pole shall not exceed five (5) feet by ten (10) feet.

4. Directional signage internal to residential developments. Directional signage within residential developments and subdivisions shall be for communicating directions within the residential community. The following regulations shall apply:

a. The directional signs shall be of similar type and style throughout the planned development;

b. The directional signs shall not exceed twenty- four (24) square feet and a maximum height of eight (8) feet; and,

c. The directional sign shall contain no advertising copy, other than logo or company name.

5. Directional signage internal to commercial developments. Directional signage within commercial developments shall be for communicating directions to the general public. The following regulations shall apply:

a. Commercial developments shall be permitted a total of four (4) directional signs internal to the development. In planned commercial developments, each parcel shall be treated as a separate development.

b. The directional signs shall not exceed twenty- four (24) square feet and a maximum height eight (8) feet;

c. The directional sign shall contain no advertising copy, other than logo or company name;

6. Point of purchase signs. Point of purchase signs in any zoning district are subject to the standards of this section.

a. **Freestanding signs.** The maximum number, maximum height, maximum area and the location of freestanding signs shall be governed by the following Table and supplementary standards:

Table 7.14-1
TABLE OF SIGN STANDARDS

Right-of-Way in Width[1] in Feet	Maximum Height in Feet			Maximum Single Face Sign Area in Square Feet			Maximum Number of Signs by Right-of-Way Frontage
	C/C	C/R	R	C/C	C/R	R	
≥110	30	20	10	240	180	100	3 ≥400 2 <400 1 ≤250
≥80 <110	25	15	10	180	140	80	3 ≥400 2 <400 1 ≤250
<80	10	8	6	124	96	60	3 ≥400 2 <400 1 ≤250

Key to Table 7.14-1:

< = less than
> = greater than
≤ = less than or equal to
≥ = greater than or equal to;
C/C = commercial, industrial or non-residentially zoned parcels adjacent to commercial, industrial or non-residentially zoned parcels
C/R = commercial, industrial or non-residentially zoned parcels adjacent to any residentially zoned parcel
R = residentially zoned parcels.

[1] The ultimate rights-of-way distances indicated on the Thoroughfare Right-of-Way Protection Map adopted by Palm Beach County shall be used for determining sign height and sign area.

(1) **Location.**

(a) Unless waived by the County Engineer pursuant to base building line standards, all freestanding signs shall be located at least five (5) feet from all base building lines.

(b) There shall be a minimum of a forty-eight (48) foot separation measured by a radius between all signs on non-residentially zoned parcels, including between signs on adjacent parcels, except that all parcels shall be entitled to at least one sign unless prohibited by other sections of this Code.

(c) There shall be a minimum of a ninety-six (96) foot separation, measured by a radius, maintained between signs on residentially zoned parcels.

(d) In determining maximum height and maximum sign area, a distance radius of one-hundred and twenty (120) feet, measured by a radius, shall be extended in every direction outward from the location of the sign to determine the appropriate zone classification of the adjacent parcels. When using Table 7.14-1, the following classifications shall apply:

(i) When the parcel where the sign is to be located is zoned non-residential the C/C classification shall apply if the radius only intersects the parcel lines of non-residentially zoned parcels;

(ii) When the parcel where the sign is to be located is zoned non-residential the C/R classification shall apply if the radius intersects the parcel lines of both non-residentially and residentially zoned parcels;

(iii) When the parcel where the sign is to be located is zoned non-residential the C/C classification shall apply if the radius does not intersect any other parcel; or,

(iv) When the parcel where the sign is to be located is zoned residential the R classification shall apply. the radius only intersects the parcel lines of residentially zoned parcels.

(e) Freestanding signs erected in a median within an access way to a development shall be subject to review and approval by the Office of the County Engineer.

(2) **Sign face area.**

(a) The maximum accumulative total square footage of sign area of all signs allowed per right-of-way frontage for any parcel shall not exceed four-hundred and eighty (480) square feet or the amount determined in (d) below whichever is less.

(b) For the purpose of this Code, all sign face square footage calculations shall be computed for a single-face. When a sign has two (2) or more faces, it is a multifaced sign. The computation of the area for a multifaced sign shall be as follows:

(i) the total square footage of a multifaced sign shall be calculated by enclosing all vertical planes to create a solid geometric shape (excluding horizontal planes, support structures, or other decorations without copy and area devoted to address). The total of all surface areas determined above shall be divided by two (2) to determine a single face sign area equivalent for the multifaced sign. Refer to Table 7.14-1 for the maximum single-face equivalent sign area allowable.

(c) The total square footage for any single-faced sign shall be no larger than the square footage allowed on Table 7.14-1.

(d) To determine maximum single face sign area square footage allowed per right-of-way frontage for any parcel calculate the following:

(i) Land area of a parcel in square footage unless the depth of the parcel exceeds the frontage by four (4) times or more, whereupon multiply by 0.4 and then calculate ii) or iii) below whichever applies;

(ii) If the total square footage is 130,680 square feet or less, maximum single face sign area allowable shall be equal to the total parcel square footage (i above) times .003 or three hundred (300) square feet whichever is less; or,

(iii) If the total square footage is greater than 130,680 square feet, the maximum single face sign area allowable shall be equal to the total parcel square footage (i above) times .002 or three hundred (300) square feet whichever is greater.

(e) If the parcel's frontage is fifty (50) feet or less, maximum single face sign area shall not exceed one hundred twenty (120) square feet or the maximum single-face sign area as calculated in (d) above, whichever is less.

(f) Address/street numbers are required on at least one freestanding sign per parcel with a minimum height of six (6) inches for the numbers. This shall not be calculated in the total sign area.

(3) Freestanding signs shall not be permitted in conjunction with roof signs or projecting signs.

(4) The primary identification sign at a shopping center may show name or logo of an outparcel, outbuilding, or adjacent parcel, provided;

(a) Access to the outparcel, outbuilding, or adjacent parcel can be made through the shopping center; and,

(b) The outparcel, outbuilding or adjacent parcel and the shopping center are common to a planned commercial development or both parcels are subject to a recorded Unity of Control document with Palm Beach County as a third party beneficiary, insuring reciprocal ingress and egress.

However, the land area of the outparcel, outbuilding or adjacent parcel shall not be included when calculating the allowable sign area for the shopping center identification sign.

b. Wall signs.

(1) No sign shall be mounted at a distance measured perpendicular to the surface of a building greater than thirty-six (36) inches from the surface of the building to the face of the sign. The total square footage of all wall signs on any wall shall not exceed in surface area or sign area one and one-half (1 ½) times the length of the exterior wall of the individual business establishment to which it is attached.

(2) Side wall or rear wall signage shall not exceed fifty (50) percent of the maximum square footage specified by Sec. 7.14.I.6.b.1. Side wall or rear wall signage adjacent to residential parcels shall not exceed twenty-five (25) percent of the maximum square footage specified by Sec. 7.14.I.6.b.1.

(3) There shall be a minimum separation of three (3) feet between wall signs. No wall sign shall cover wholly or partially any required wall opening.

(4) No wall sign shall coexist with any projecting sign, except projecting signs under cover in Sec. 7.14.I.6.c.

(5) Signs located on the building shall be considered wall signs. The maximum height of a wall sign shall be six (6) inches below the peak of the roof at the location of the sign.

(6) Solid doors with signage shall be included in calculating the maximum allowed square footage of wall signage.

(7) Awning signs. Awning signs are considered wall signs.

(a) Non-functional awnings. When signage is attached to or incorporated into non-functional awnings, the entire awning shall be considered a sign.

(b) Functional awnings. Signage attached or incorporated into awnings which function as cover or shade, shall be calculated by enclosing the copy area of the lettering or logo and applying the wall sign standards of Sec. 7.14.I.6.b.

c. Projecting signs under cover. Projecting signs shall be permitted under canopies or covers in conjunction with pedestrian walkways, however, the sign copy shall not be readable from the street. The maximum square footage shall not exceed six (6) square feet.

d. Electronic message center signs.

(1) It is the intent of Palm Beach County Board of County Commissioners to provide electronic message center signs as signage option for regional facilities or specialized attractions which by their operating characteristics are unique in their sign requirements. Facilities which may be found by the Board of County Commissioners to be appropriate for electronic message signage would typically be mixed use in character have serial performances and be regional in attraction and scale.

(2) All the following electronic message center signs are exempt from the requirements of this subsection regulating electronic message center signs. Exempt electronic message center signs shall comply with all substantive and procedural requirements of the building, electrical and sign code as applicable.

(a) Electronic message center signs that display time, date, temperature or related weather information only, provided the message unit is less than twenty (20) square feet in area or twenty-five (25) percent of the total allowable sign area, whichever is greater.

(b) Electronic message center signs that are interior to a project and are not readable from any of the following:

(i) any adjacent parcel;

(ii) within any structure on any other parcel; or,

(iii) six foot or less above grade level from any adjacent public or private right-of-way.

(3) The following are prohibited:

(a) Flashing lights or signs alone or in conjunction with an electronic message center sign;

(b) Electronic message center signs for restaurants, golf courses, hotels or motels, professional or medical offices, or retail establishments, except regional malls in excess of one (1) million square feet. This prohibition shall not be construed to prohibit electronic message signs at mixed use facilities;

(c) Any message that resembles traffic controlled devices or any items or messages that are determined to be confusing or misleading as a traffic control device;

(d) Electronic message center signs in windows, such as stock market reader boards;

(e) Computer attention getting message delivery systems including but not limited to the following: twinkle; flash; zoom; roll; scroll;

(f) No reflectorized lamps; and,

(g) No lamps over thirty (30) watts.

(4) Development permits for electronic message center signs shall require approval as a conditional use class "A". The application, review and approval processes shall occur pursuant to Sec. 5.4.E of this Code.

(5) Criteria for Issuance of a Permit. The criteria set forth herein are in addition to the development regulations set forth in this section and this Code. In the event of a conflict in regulations, the most strict shall apply.

(6) Prior to certification by the Development Review Committee of an application for a development permit for an electronic message center sign, staff shall find that the proposed sign complies with the following locational and design requirements:

(a) Locational criteria.

(i) All electronic message center signs shall be located in a CG-Commercial General, CRE- Commercial Recreation, PO- Public Ownership or IL-Light Industrial zoning district.

(ii) No electronic message center sign shall be located on any parcel or within any development that is contiguous on any side parcel line to land that is designated by the Comprehensive Plan or is used as residential.

(iii) Electronic message center signs shall not be readable from any land that is designated by the comprehensive plan or used as residential.

(iv) Electronic message center signs shall only be located or fronting on roadways classified as arterials or expressways.

(v) Electronic message center signs shall be located a minimum of one thousand (1,000) feet from any expanded signalized intersection and shall not be readable from the intersection.

(vi) No more than one electronic message center sign shall be permitted per development or event.

(b) Design requirements.

(i) The height of all electronic message center signs shall be determined by utilizing Table 7.14-1.

(ii) The applicant shall provide assurance that the message unit:

a) shall not change copy, light, color, intensity, words or graphics more than once per two (2) seconds;

b) shall not exceed thirty-five (35) percent of allowable single-face square footage in area; and,

c) shall not exceed fifty (50) percent of allowable single-face square footage in area on expressways.

(c) Electronic message center signs shall comply with the following minimum setback requirements:

(i) front = fifteen (15) feet.

(ii) side interior = thirty (30) feet.

(iii) side corner = fifty (50) feet.

(7) In reviewing applications for electronic message center signs, the Board shall impose conditions as necessary to assure that the sign is compatible with and minimizes adverse impacts on the area surrounding the proposed sign, including but not limited to conditions related to:

(a) enhanced landscaping;

(b) visual buffers of earth or vegetation material;

(c) height limitations;

(d) additional restriction on the frequency of message change;

(e) orientation or location of the proposed sign;

(f) find that the sign will be designed to minimize potential distraction or confusion to passing motorists;

(g) find that the sign is of the same architectural character as the principal use;

(h) find that the sign will not be a nuisance to occupants of adjacent and surrounding properties by its size, brightness, movement or location; and,

(i) find that the sign is accessory to a use which by its nature demonstrates a unique need to communicate more information than is ordinarily needed for a business or attraction. Further, the Board shall find that the use is regional in scale and attraction.

(8) Effect of issuance of a permit for an electronic message center sign. The development order for the electronic message center sign shall be subject to the time limitation on use of development orders pursuant to Sec. 5.8 of this Code.

J. **Master sign plan.** The purpose and intent of a master sign plan is to provide a master record of signs on a parcel and to assure compatible sign applications. Further, the intent of this section is to create unification of signage within parcels but not between parcels that are common to a planned commercial development and out-parcels shall be treated separately.

1. The following uses shall be required to submit a master sign plan to the Zoning Division:

a. Conditional Use, Class A (BCC Approval);

b. Conditional Use, Class B (ZC Approval);

c. Planned Development Districts; and,

d. Development Review Committee (DRC) Review Thresholds, Article 6, Table 6.4-2.

2. A master signage plan shall be submitted prior to site plan certification and shall consist of the following:

a. An accurate plot plan of the subject parcel, with the property control number for reference, at such scale as the Zoning Director may reasonably require;

(1) Location of buildings, parking lots, driveways, and landscaped areas on subject property;

(2) Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the subject property;

(3) An accurate indication on the plot plan of the proposed location of each present and future sign of any type; and,

(4) A visual representation of unified color, unified graphics, base planting details, materials and illumination and conformance to all sign related standards. Colors utilized by a business or corporation which are recognized on a national basis as an identification factor or element may be exempted by the Zoning Director.

K. **Sign and Premises Maintenance.** All freestanding signs and premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all noxious substances, rubbish and weeds.

L. **Technical standards.**

1. **Construction generally.** Unless exempted signs shall be constructed and installed in accordance with the technical standards administered in the Building Codes Enforcement Administrative Code, as amended from time to time, which is incorporated herein by reference.

2. **General standards for all zoning districts.**

a. Where other sign or outdoor advertising regulations are in effect and are more restrictive than the provisions of this section, the more restrictive provisions shall prevail.

b. Reflectors and lights shall be permitted on ground signs and wall signs, provided, however, that the light source shall provide proper shielding so as to prevent glare upon adjacent residential land.

c. No sign shall exceed thirty (30) feet in height, except as provided herein.

d. No portion of any sign shall project over a public sidewalk or right-of-way. Any sign located in required landscaped areas shall comply with Sec. 7.3 (Landscaping and Buffering).

M. **Removal or alteration of certain signs.** Unsafe or dangerous signs shall be removed or improved in accordance with the Palm Beach County Building Codes Enforcement Administrative Code.

N. **Labels required on signs.**

1. Every sign erected, constructed, painted, or maintained, for which a permit is required shall be plainly marked with the name of the person erecting, painting, and maintaining such sign, and shall have affixed on the sign and visible from the parcel the number corresponding to the permit issued for the sign.

2. Upon issuance of a sign permit to a sign contractor, the Building Director shall issue a permit tag, showing the number corresponding to the permit, which, at the time the sign is erected, shall be attached to the sign so that it can be clearly seen.

3. The absence of such tag shall be prima facie evidence that the sign or advertising structure is being operated in violation of this section.

O. **Persons responsible for compliance**. Persons who shall be charged with violations of this section are:

1. The owner, agent, lessee, tenant, contractor, or any other person using the land, building, or premises where such violation has been committed or shall exist;

2. Any person who knowingly commits, takes part or assists in such violation; and,

3. Any person who maintains any land, building, or premises in which such violation shall exists.

P. **Administration and enforcement of this section.**

1. **Authority.** The Board of County Commissioners by itself or through PZB shall adopt procedures for enforcing and administering this section and to employ those persons necessary for such administration and enforcement.

2. **Building Codes Enforcement Administrative Code.** The Building Codes Enforcement Administrative Code, as may be amended from time to time, is hereby adopted by reference and is incorporated herein, and is intended to provide for the administrative aspects of the Sign Code.

3. **Removal of signs in violation of this section.**

a. **Illegal signs in general.** All signs, banners and other fixtures or structures governed by this section (Signs) shall conform to the regulations herein. A sign not erected, constructed or located in conformance with this section is an illegal sign.

b. **Procedures for notification, removal and storage of illegal signs.** Except as provided in subsection c (Illegal Signs In Rights-of-Way) below, Palm Beach County shall enforce sign regulations according to the procedures outlined in this subsection and as provided for in the Palm Beach County Code Enforcement Citation Ordinance.

(1) **Tagging.** If a sign is erected, constructed or located in violation of this Code, the County shall attach a notice to the sign stating the violation and any corrective measures needed to bring the sign into compliance with this section. The notice shall further specify that the sign will be removed after 10 days have lapsed from the date the tag was placed on the sign, if the specified corrective measures have not been taken.

(2) **Removal and storage.** If corrective measures have not been complied with after 10 days of placement of the tag on the sign, the Department shall remove and store the sign in an appropriate storage facility at the expense of the sign owner or the owner of the parcel upon which the sign is located. The storage period shall be at least 30 days.

(3) **Notice.** Upon removal and storage of the sign, a Notice of Violation and Removal and Storage shall be sent directly to the named owner of the sign, if the owner's address can be readily ascertained from the sign or the address where the sign was located. The notice shall also provide information as to where the sign is stored, how the sign may be reclaimed and the owners right to appeal.

(4) **Return or destruction.** Any sign which has been removed from private property pursuant to the above provisions, may be claimed by and returned to the property owner. Release of any sign shall be by written authorization of the Director of Code Enforcement upon showing of ownership and payment of a sum appropriate to compensate the County for the expenses of locating, tagging, notice, removal, and storage of the sign.

Any sign that remains unclaimed after 30 days from the date of removal shall become the property of the County and may be disposed of in any manner deemed appropriate by the County.

Destruction of the illegal sign shall not extinguish any claim for payment of unpaid fees. Any cost associated with removal of an illegal sign, including cost of collecting unpaid license fees, may also be assessed to the sign owner and the owner of the property upon which the sign is located. No new sign permit application shall be accepted from the owner of the illegal sign until all fees and costs associated with removal and storage of any illegal sign(s) are paid.

c. Illegal signs in public rights-of-way. Unless explicitly provided for in this section or otherwise by law, or agreement with the appropriate government agency, no sign shall be located in public rights-of-way. Signs or other structures located in public rights-of-way shall be considered illegal, a safety hazard and a trespass upon public property.

Illegal signs in public rights-of-way shall be immediately removed by the County. Such signs need not be stored and may be immediately disposed of in any manner deemed appropriate by the County. However, if the approximate reasonable value of the sign or other structure is greater than three hundred dollars ($300) and the sign bears the name of the owner, the sign owner shall be notified and the sign shall be removed and stored, and returned or destroyed in accordance with procedures in Sec. 7.14.P.3.b (Procedures for Notification, Removal and Storage of Illegal Signs), above.

d. Use and removal of political campaign signs.
Use and removal of political campaign signs shall be governed by Section 106.1435, Florida Statutes (Usage and removal of political campaign advertisements), except that the good faith effort to remove all signs shall be made within ten (10) days after the election.

e. Procedure for appealing the removal of a sign in violation of this section.
The sign owner may appeal the action of Palm Beach County by delivering a written request for an administrative hearing to the Director of Code Enforcement within 30 days from the date of removal of any sign. Said request shall identify the specific sign in question and state the reason why the sign owner believes the removal of the sign was improper. In the event the County finds the sign to be legal, the fee for locating, tagging, noticing, removal or storage shall be waived.

4. Other legal remedies. In addition to all criminal penalties and other enforcement procedures, the Board of County Commissioners may institute any lawful civil action or proceeding to prevent, restrain or abate the following violations of this chapter:

a. The unlawful construction, erection, reconstruction, alteration, rehabilitation, expansion, maintenance or use of any sign or sign structure.

b. The illegal act, conduct, business, or use of, in or about such premises related to any sign or sign structure.

Q. Off-premises signs.

1. **Purpose and intent.** It is the purpose and intent of the Board of County Commissioners to prohibit billboards and similar large off premises signs in order to improve the aesthetic appearance of unincorporated Palm Beach County. It is also the purpose and intent of the Board of County Commissioners to remove and amortize all billboards and similar large off-premises signs in order to cure the visual and aesthetic degradation caused by these structures and to achieve the goal of an aesthetically improved built environment. Small off-premises signs which are directional in nature are permissible.

2. **Types prohibited.** No off-premise sign greater than twenty-four (24) square feet in sign face or eight (8) feet in height shall be permitted.

3. **Permitted off-premises directional signs.** Off-premises signs shall be for communicating information directional in nature to the general public and shall be permitted and approved with conditions and upon compliance with the following:

   a. Off-premises directional signs shall only be permitted to be erected at a property line adjacent to an arterial or collector street and shall be within fifty (50) feet of the point of ingress.

   b. Off-premises directional signs shall only be allowed where parcels have access but have no frontage on that arterial or collector street.

   c. All off-premises directional signs shall be located a minimum of five (5) feet from all base building lines.

   d. Each parcel, on which the off-premises directional sign is erected, shall not have more than one freestanding off-premises directional sign per access or frontage. Outparcels of a valid planned commercial developments shall be considered separate parcels.

   e. Off-premises directional signs shall not exceed twenty-four (24) square feet nor be more than eight (8) feet in height.

   f. Off-premises directional signs shall only be directional in nature. At least fifty (50%) percent of the sign shall be for directional purposes with no more than fifty (50%) percent of the sign dedicated for name or logo identification. The standard sign size shall be four (4) foot by six (6) foot.

   g. Off-premises directional signs shall only be permitted on parcels as follows:

      (1) Parcels adjacent (common property lines) to the parcel identified on the directional sign; and,

(2) Parcels subject to a recorded unity of control document, with Palm Beach County as a third party beneficiary, insuring ingress and egress to the parcel identified on the directional sign.

4. **Freestanding structure required**. Off-premises signs shall be completely independent, freestanding structures. They shall not be attached to any other structure, nor shall any structure, including other signs, be attached to an off-premises sign.

5. **Prohibited in rights-of-way and easements**. No off-premises sign shall be erected in any public or private right-of-way or easement.

6. **Applicability of the other provisions**. Unless expressly provided to the contrary, all other provisions of this section shall apply to the construction, reconstruction, establishment, and maintenance of an off-premises sign.

7. **Special inspection requirements**. No off-premises sign shall be erected, reconstructed, or replaced without having been subject to a final, on-site inspection by the PZB Department.

a. A tie-in survey shall be provided to the PZB Department prior to or at the time of final on-site inspection for each off-premises sign which shall be erected, replaced, or substantially reconstructed after March 10, 1986. The tie-in survey shall be prepared by a land surveyor licensed to practice in the State of Florida. The survey shall certify that the off-premises sign has been properly placed with respect to all height, setback, spacing, and other locational standards of this section and of Florida law.

b. Any off-premises sign which is erected, replaced, or substantially reconstructed in contravention of this section shall be considered to be an illegal sign and subject to enforcement as provided by law.

8. **Removal of illegal signs**.

a. The PZB Department shall remove any illegal off-premises sign without further notice if the permit holder does any of the following:

(1) Fails to appeal within the time permitted.

(2) Fails to pay required license fees within the time allowed.

(3) Violates this section in any other way.

b. The PZB Department may remove the illegal off-premises sign itself or arrange to have it removed by a contractor.

c. Removal of the illegal off-premises sign shall not extinguish any claim for payment of unpaid fees. Any costs associated with removal of an illegal off-premises sign, including costs of collecting unpaid license fees, shall also be assessed to the permit holder. No new permit applications shall be accepted from the same permit holder until all fees and costs associated with removal of illegal off-premises signs are paid.

9. Nonconforming off-premises signs.

a. All off-premises signs and structures existing and in place on November 28, 1988, except those that are less than twenty (20) square feet in sign face and eight (8) feet in height, are declared nonconforming to this section. Any legally issued building permits for off-premises signs issued prior to this date shall be honored, but shall be subject to the amortization schedule established by this section. Such building permits shall not be renewed if they expire for any reason.

b. All signs and sign structures which are non-conforming to the standards of this section but which were erected lawfully because of a variance previously granted or because of conformance with the previously existing sign regulations at the time their permit was issued or the time the sign was erected, shall be removed according to the schedule in Sec. 7.14.Q.9.d.(3) by the owner of the sign or the owner of the land or be brought into compliance with the terms contained herein, except for the following:

(1) Any nonconforming sign located on an interstate or federal aid primary highway which is protected from removal by the Federal Highway Beautification Act or Chapter 479, Florida Statutes, by reason of providing compensation for removal shall be exempted from the removal terms of this subsection. This shall not, however, preclude Palm Beach County from seeking to remove any such sign through an eminent domain proceeding, nor achieving sign conformance by other lawful means. In the event the Federal Highway Beautification Act or Chapter 479, Florida Statutes, is repealed, amended or adjudicated to not require compensation, then the removal provisions contained in (c) below shall apply.

c. Amortization schedule.

(1) For the purposes of this section, an amortization schedule is hereby established. The date of notice of amortization to the underlying land owners and sign owners shall be nine (9) months from the effective date of this section. The amortization period set out in section (2) below shall commence at the date of notice of amortization.

(2) The following is the amortization schedule for those prohibited, nonconforming off-premises signs:

(a) Those off-premises signs that have been in existence for three (3) or less years shall be removed eight (8) years from the official amortization date.

(b) Those off-premises signs that have been in existence for five (5) to three (3) years shall be removed six (6) years from the official amortization date.

(c) Those off-premises signs that have been in existence for seven (7) to five (5) years shall be removed four (4) years from the official amortization date.

(d) Those off-premises signs that have been in existence for seven (7) or more years shall be removed two (2) years from the official amortization date.

(3) If a land owner of the sign or sign structure believes the schedule in section 2 above does not minimize its loss, recoup its initial investment, or is generally unreasonable given the specific conditions of that sign or sign structure, the land owner or sign owner may petition the Board of Adjustment for an extension of the amortization time period. The Board of Adjustment may extend the amortization time period for up to an additional five (5) years if it concludes that a particular sign or sign structure requires additional time to minimize its loss or recoup its investment. The petition for additional amortization shall be submitted to the Board of Adjustment at least ninety (90) days prior to the expiration of the five (5) year amortization period.

(4) In an effort to encourage compliance with the schedule in (2) and reduce litigation expense, the underlying land and sign owner may waive the right in (3) in exchange for an additional two (2) years of amortization. The waiver shall be in the form of a legal instrument signed by the sign owner, the underlying land owner and any person or entity having a legal and equitable interest.

d. Pursuant to Sec. 171.062 of Florida Statutes, legal nonconforming signs which exist on land annexed into a city on or before the city amends its comprehensive plan and zoning code to directly conflict with the provisions of this section shall be subject to the removal or compliance provisions contained in this section.

R. License.

a. Required.

(1) No person shall erect, operate, use, or maintain, or cause to be erected, operated, used or maintained, any off-premises sign within the unincorporated area of the county without first obtaining an annual license. This annual license shall apply both to each off-premises sign existing on March 10, 1986, as well as to each off-premises sign which may be erected after such date. Legally permitted off-premises directional signs as allowed by Sec. 7.14.Q.3. shall be excluded from obtaining an annual license.

(2) Any off-premises sign which is erected, operated, used or maintained in violation of this section shall be considered an illegal sign, and immediately subject to enforcement action as provided by law.

1. Fee.

a. No person shall erect, operate, use or maintain, or cause to be erected, operated, used or maintained, any off-premises sign within the unincorporated area of the county without first paying an annual license fee. This annual license fee requirement shall apply both to each off-premises sign existing on March 10, 1986, as well as to each off-premises sign which may be erected after such date. The proceeds of the annual license system shall be used by the PZB Department to defray the costs of administering this chapter.

b. The annual license fee for an off-premises sign shall be fifty dollars ($50.00) for each off-premises sign face. For signs to be erected hereafter, the annual license fee shall be paid upon application for a permit to erect an off-premises sign. For all off-premises signs existing on March 10, 1986, the annual license fee shall be payable upon the expiration date established below. The annual permit fee shall be prorated in the first year that an off-premises sign is erected by payment of an amount equal to twenty-five (25) percent of the annual fee for each remaining whole quarter or partial quarter of the permit year remaining. The license fee shall be reviewed in 1988 and each year thereafter and may be adjusted as necessary to defray the costs of administering this chapter.

c. On or before July 1 of each year, the PZB Department shall:

(1) Provide an inventory to each permit holder of all currently valid permits which were issued to him prior to that date.

(2) Notify the permit holder of all annual license fees due.

(3) Inform the permit holder of the procedures he shall follow to pay required license fees.

(4) Inform the permit holder of the consequences of failure to pay required license fees. The permit holder shall thereupon notify the PZB Department no later than September 1 of each year of any additions, deletions, omissions, or errors in the annual inventory and license fee calculations. Upon receipt of a corrected inventory list from the permit holder, the PZB Department may adjust the amount of license fees charged or may reject the permit holder's claims.

d. Expiration; renewal; license tags. Each annual off-premises sign license shall expire on September 30 of each calendar year. All license fees shall become due and payable on October 1 of each calendar year. License tags shall be prominently displayed upon the off-premises sign in order to be visible from the street.

e. Violations.

(1) If a permit holder fails to submit fees required by this section prior to or upon the annual expiration date, the PZB Department shall:

(a) Immediately issue a notice of violation in the form specified in Sec. 7.14.Q.11.e.(3) below; and

(b) Suspend acceptance of any new applications for off-premises signs from the same permit holder. No new permit applications shall be accepted from the same permit holder until final resolution of any disputes arising from the PZB Department's actions.

(2) In the event that disputes arise regarding the amount of annual license fees charged, the permit holder may establish an escrow account into which he shall pay an amount equal to that portion of fees and other charges assessed by the PZB Department which is in dispute. The PZB Department shall be named as the beneficiary of the escrow account. This escrow account shall be established prior to the annual expiration date and shall remain in effect until final resolution of the dispute. Affected off-premises signs shall continue to be treated as illegal signs; however, as long as the escrow account remains in effect, they shall not be removed as provided in this division.

(3) The notice of violation shall be sent by certified mail, return receipt requested. At a minimum, it shall:

(a) Indicate the total amount of annual license fees due.

(b) Indicate that the permit holder has thirty (30) days from the date of mailing in which to pay the total fee due.

(c) Assess an additional delinquency fee equal to twenty-five (25) percent of the amount due.

(d) Inform the permit holder that failure to pay all required fees within the time allowed shall constitute a violation of this chapter and his off-premises signs shall thereupon be considered to be illegal.

(e) Inform the permit holder of the process established by this chapter for the removal of illegal signs.

(f) Inform the permit holder of his right to appeal the action of the PZB Department, as provided in this division.

f. A copy of the notice of violation may also be prominently affixed to each off-premises sign.

SEC 7.15 MAINTENANCE AND USE DOCUMENTS.

A. **Purpose and Intent.** This section is established to ensure that adequate ownership and maintenance measures will be provided in residential and other developments to protect and perpetually maintain all Common Areas or other required areas (including improvements located upon or within the Common Areas) required pursuant to this Code or other applicable County ordinances or regulations. This section is also established to ensure the continued availability and utility of the Common Areas for the residents or occupants of the development and to prevent such facilities or the need for such facilities from becoming an unnecessary burden or nuisance to the County or surrounding property. Nothing in this section shall be construed as creating any obligation upon the County to maintain such Common Areas or their improvements or to otherwise ensure their availability and condition.

B. **Applicability.** This section shall apply to all developments subject to review by the Development Review Committee as delineated elsewhere in this Code. Developments for which waivers of platting are administratively obtained shall also comply with the requirements of this section.

C. **Exception.** Generally, the maintenance and use documents requirement shall not apply to lands or improvements to be owned and maintained under a condominium or cooperative. The developer of any lands to be owned and maintained under a condominium or cooperative shall establish and regulate those in accordance with the requirements set forth by The State of Florida. If the condominium or cooperative is located within a Planned Unit Development, though, additional County document requirements may apply.

D. **General Requirements.** A developer shall submit documents establishing maintenance and use of the Common Areas of a proposed development and other required areas at the point in the development process set forth in Article 8 Section 8.20 of this Code or as required as a condition of approval by any decision making or administrative body of the County. All documents shall be reviewed and approved by the County Attorney's office prior to recording in the public records. The recording of the documents and all associated fees shall be the responsibility of the developer. All documents shall be recorded as approved by the County Attorney's office, and copies of the recorded documents shall be submitted to the County when requested.

E. **Documents Establishing Maintenance and Use.** The type of document required to establish use rights and responsibility for maintenance of the Common Areas of a development depends upon the nature of the development.

1. **Developments including a subdivision of five (5) or more lots.** A Property Owners' Association shall be required. Developer shall submit a Declaration of Covenants and Restrictions, Articles of Incorporation, and By-Laws. If there are to be party walls within the development, the Declaration of Covenants and Restrictions shall include a Declaration of Party Wall. This requirement applies to both residential and non-residential developments.

2. Subdivisions of a maximum of four (4) lots. A Property Owners' Association may or may not be required depending upon the individual subdivision. The determination shall be made by the County Attorney's Office. If a Property Owners' Association is required, then the submittal requirement shall be as listed above. If a Property Owners' Association is not required, then the Developer shall submit a Unity of Control. If there are to be party walls within the development, a Declaration of Party Wall shall be included in the submission.

3. Rental Projects. A Unity of Title shall be submitted for a development that will be owned and maintained by a landlord for the benefit of lessees residing on or occupying leaseholds on a Lot or Parcel.

F. Content Requirement for Documents. The following shall be the minimal content requirements for documents. Provisions which do not conflict with any County requirements may also be included.

1. Property Owner's Association Documents.

a. Declaration of Covenants and Restrictions.

(1) Legal description. For master associations: All property included within the Master Plan for a development (no matter how many phases in which it shall be developed) shall be subjected to the terms of the Declaration at the time the first plat of the development is recorded. Property shall not be withdrawn from the terms of the Declaration unless it is also withdrawn from the Master Plan.
For sub-associations: All property included within a plat in which a sub-association is named in a dedication/reservation shall be subjected to the terms of the Declaration for that sub-association at the time the plat is recorded.

(2) Definition. There shall be a section in the Declaration in which, minimally, the following terms (or similar terms) are defined: Association, Common Areas, Member, Properties, Declarant/Developer, Unit/Lot/Parcel.

The definition of Association shall include the name of the property owners' association responsible for maintaining the Common Areas of the development. The association named here must be the same association that accepts the dedications/reservations on any plat of the development. The Association shall be a Florida corporation not for profit.

The definition of Common Areas shall include the phrase "any area dedicated to or reserved for the Association on any recorded plat or replat of the Properties".

The definition of Member shall reflect the requirement that all persons or entities holding title to any portion of the Properties shall be voting members of the Association. In the case of a master association, this may be accomplished either by direct membership by all owners or by the owners' sub-association membership with the sub-association(s) being the voting member(s) of the master association. The definition must specifically allow direct membership for any owner who is not a member of a represented sub-association.

The definition of Properties shall include all the property subject to the terms of the Declaration including any added by amendment to the Declaration.

The definition of Declarant/Developer shall include successors and assigns.

The definition of Unit/Lot/Parcel shall identify the division of property by which membership in the Association is defined and shall be consistent with the terms used to define Member in the Declaration.

(3) Association structure and responsibilities. There shall be provisions for the following:

(a) All persons or entities owning any portion of the development shall automatically become members of the Association.

(b) All members of the Association shall be entitled to vote on Association matters.

(c) The Association shall have the authority to assess all members for Association expenses including, but not limited to, the cost of maintaining the Common Areas.

(d) All members of the Association, except any governmental entity which may own property in the development, shall be subject to assessments by the Association. The developer shall either pay assessments or fund the deficit in the Association's operating budget until he has turned over control of the Association. After he has turned over control of the Association, he shall pay assessments for any lot(s) he may still own.

(e) The Association shall have the authority to place a lien on a member's property for any unpaid assessment.

(f) The developer may control the Association while development is ongoing. He must, however, establish in the Declaration a definite time by which he will turn over control of the Association to the owners.

(g) The Declaration shall provide that the Association shall be responsible for the maintenance of the Common Areas. Maintenance responsibility may be delegated to a sub-association or to an individual lot owner (in the case of certain limited use areas), but the delegating association shall be responsible in the event the sub-association or the lot owner fails to maintain any portion of the Common Area or other required areas.

(4) Common areas. The common areas shall be defined to include any area dedicated to or reserved for the Association on any recorded plat of the Properties. The developer shall state at what point he will deed the Common Areas to the Association.

(5) Easements. The following easements shall be granted (or confirmed if already established by recorded plat or grant of easement):

(a) Ingress/egress easements for members, their guests, and licensees.

(b) Utility easements for installation, maintenance, and repair by any utility company, including cable, servicing the development.

(c) Drainage easements.

(d) Maintenance easements for maintenance of the Common Areas. If the Association will need access to an owner's property to fulfill its maintenance obligation, the easement should be granted here.

(e) Encroachment easements for accidental encroachment onto the Common Area.

(f) Common Area easement for use by all members of the Association and their guests.

(g) Developer's easement to allow developer access as needed to complete construction of development.

(h) Public Service for police protection, fire protection, emergency services, postal service, and meter reading

(i) Zero-lot line easement, if applicable. A three foot easement contiguous to the zero-lot line boundary shall be established for the purpose of incidental encroachment, access and maintenance.

All easements, with the exception of the developer's easement, shall be perpetual.

(6) Architectural control. Any provisions included in the Declaration regarding architectural control should be consistent with Palm Beach County regulations. It should be noted in the Declaration that nothing in the Declaration should be interpreted as an exemption from compliance with County regulations.

(7) General provisions. There shall be provision for the following:

(a) Duration. The Declaration shall run with the land for a minimum of twenty (20) years with provision for automatic renewal.

(b) Enforcement. The Association, the individual members, and the developer shall all have the ability to enforce the terms of the Declaration.

(c) Amendment. The method by which the Declaration may be amended shall be established. If the developer is given a separate right for amending the Declaration, his right shall not survive the turnover of control. No amendment that withdraws property from the terms of the Declaration shall be recorded unless approved in writing by the County Attorney's office. No amendment inconsistent with the requirements of this section shall be recorded unless approved in writing by the County Attorney's office. Nothing contained herein shall create an obligation on the part of the County Attorney's office to approve any amendment.

(d) Dissolution. Any owner may petition the Circuit Court for the appointment of a Receiver to manage the affairs of the Association in the event of dissolution of the Association.

(8) Articles of Incorporation.

(a) All terms shall be consistent with the terms of the Declaration and By-Laws.

(b) The Property Owners' Association shall be a Florida corporation not for profit with, minimally, the authority to maintain Common Areas or other required areas, assess members for operating costs, place liens on members' property for failure to pay assessments, and enter into agreements with governmental entities.

(9) By-Laws. All terms shall be consistent with the terms of the Declaration and Articles of Incorporation.

(10) Declaration of Party Wall. A Declaration of Party Wall shall be recorded whenever there are shared walls in a development.The Declaration may be a part of a Declaration of Covenants and Restrictions or it may be recorded as a separate instrument. It should address the following:

(a) Repair of the wall is a joint obligation and expense unless damage is caused by the negligence of one party; in that case the cost of repair is the obligation of that party alone.

(b) Repair or replacement of the wall shall be to its original construction.

(c) Each party shall have the right to file a lien for the cost of repairs.

(d) The mortgagee shall have the same rights as the mortgagor.

(e) Structural changes in the wall are prohibited.

(f) If there is a common roof, the same provisions shall apply.

(g) If access and/or parking are to be shared, there should be an easement granted to accommodate that.

(h) This shall be a covenant running with the land.

(11) Unity of Control. A Unity of Control shall be recorded against a subdivision of a maximum of four (4) lots if the County Attorney's Office has exempted the subdivision from the requirements for a Property Owner's Association. The Unity of Control shall contain the following:

(a) Legal description of the property subject to the terms of the Unity of Control. This shall include all property included in the master plan for the development.

(b) Creation of perpetual cross-access, parking, drainage, and utility easements for the benefit of all owners of the development.

(c) Maintenance responsibilities for all common areas of the development and method by which maintenance costs shall be shared.

(d) Establishment of these provisions as covenants running with the land.

(12) Unity of Title. The owner of a rental project shall record against his property a Unity of Title. The Unity of Title, which shall be a covenant running with the land, shall provide that the property shall be considered one plot and parcel and that no portion of the property may be conveyed to another owner. The County Attorney's office, after consulting with the Zoning and Land Development Divisions, may agree to release the Unity of Title provided that covenants establishing maintenance and use are recorded in its place. The cost of recording the Unity of Title and/or a release shall be the responsibility of the owner.

ARTICLE 8.

SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS

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ARTICLE 8.
SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS

Please Note

This document has been prepared to serve as the interim copy of the Unified Land Development Code, adopted on June 16, 1992 and effective on June 22, 1992. It has been prepared for use by staff and those persons who refer to the entire Code on a regular basis.

This document is not codified and may contain certain inconsistencies in construction. It should only be used as a guide until a codified copy of the Code is available.

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SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS

SEC. 8.1 GENERAL PROVISIONS.

A. Authority.

1. Sec. 125.01, Fla. Stat., vested counties with the power to establish, coordinate and enforce business regulations, building, housing, and related technical codes and regulations as are necessary for the protection of the public and to perform other acts not inconsistent with laws which are in the common interest of the people of the county and to exercise all powers and privileges not specifically prohibited by law.

2. Secs. 125.01, 336.02 and 336.08, Fla. Stat., provide that counties have the power and authority to establish new roads and locate and change the same; and

3. Chapter 163 and Special Acts, Chapter 69-1425, Laws of Florida, authorize the Board of County Commissioners to adopt, prescribe and promulgate rules and regulations governing the filing of plats and development of subdivisions, in order to aid in the coordination of land development.

4. It is in the public interest to ensure that adequate and necessary physical improvements are properly installed whenever land is developed.

5. It is in the public interest to establish procedures and minimum standards for the subdivision, development and improvement of land within unincorporated Palm Beach County, Florida.

B. Applicability. The regulations set forth in this article shall be applicable to all subdivision of land in unincorporated Palm Beach County, Florida, or as hereafter established.

C. Purpose and intent. The specific provisions of this article shall be applied and interpreted in a manner consistent with the County's purpose and intent to:

1. Establish procedures and standards for the subdivision of real estate;

2. Ensure proper legal description, identification, monumentation and recording of subdivisions;

3. Aid in the coordination of land development in accordance with orderly physical patterns;

4. Implement the Comprehensive Plan with respect to installation of on-site improvements for new development, which improvements are necessary to meet or maintain the levels of service required under the Concurrency Management System of the Comprehensive Plan;

5. Ensure provision of safe, convenient legal and physical access to and circulation among lots for vehicular and pedestrian traffic;

6. Ensure provision of adequate utilities to support development of each lot;

7. Regulate the subdivision and associated development of lands subject to seasonal and periodic flooding and provide for adequate stormwater management to minimize adverse impacts of development on water resources while ensuring acceptable levels of protection from inundation for residents and improvements;

8. Ensure provision of public and private parks and recreation areas to accommodate the additional population of new subdivisions in accordance with the objectives of the Recreation Open Space Element of the Comprehensive Plan;

9. Ensure that the citizens and taxpayers of Palm Beach County will not have to bear the costs resulting from haphazard subdivision of land or failure by the developer to provide adequate and necessary physical improvements of lasting quality;

10. Assure the purchaser of land in a subdivision that necessary infrastructure improvements have been provided in accordance with County standards for design and construction, and that associated rights and obligations have been established for the use and maintenance of said improvements.

SEC. 8.2 INTERPRETATION.

A. **Minimum requirements.** In their interpretation and application, the requirements of this article shall be deemed to be the minimum requirements necessary for the promotion of public health, safety and general welfare.

B. **Relationship to other agency requirements.** The requirements of this article are intended to complement and expand upon rules, regulations, and permit requirements of other state, regional, and local agencies applicable to the design, construction, and/or operation of facilities for access and circulation of vehicles and pedestrians, construction of streets and related facilities, power and communication services, wastewater and water services, and stormwater management and flood protection in Palm Beach County. Compliance with the requirements of this article shall not relieve the developer, his successors or assigns from the necessity to comply with all requirements and obtain all permits required by the regulations of such other agencies.

C. **Conflicting requirements.** In the event of conflict between a specific requirement of this article and that of another agency's rule, compliance with this article shall be interpreted by the County Engineer to avoid the conflict where such avoidance is not inconsistent with the general purposes and intent of this article and is affirmatively demonstrated as necessary to meet the purposes and intent of the conflicting rule. However, if the difference between said requirements is solely a matter of degree, the more restrictive requirement shall prevail and no conflict will be considered to exist.

SEC. 8.3 GENERAL REQUIREMENTS.

A. **Platting requirement.** Any developer planning to subdivide land shall record a Final Plat in accordance with the requirements of this article unless such requirement is specifically waived by the County Engineer in accordance with the provisions of Sec. 8.9.B

B. **Required improvements installation requirement.** The adequacy of necessary public or private facilities and services for traffic and pedestrian access and circulation, solid waste, wastewater disposal, potable water supply, stormwater management, fire rescue, parks and recreation and similar facilities and services, and potential adverse impacts on adjacent land uses and facilities shall be considered in the review of all development proposals. No Final Plat or certified survey shall be recorded until all required improvements set forth in Sec. 8.21, except those specifically waived pursuant to Sec. 8.9.C, are either completed in accordance with the requirements of Sec. 8.17 or are guaranteed to be completed by the developer in accordance with the provisions of Sec. 8.14.A.

C. **Standards and responsibility for required improvements.** All required improvements shall be designed pursuant to the standards and specifications as prescribed in this article and the County Standards, or as otherwise required by the County Engineer, in accordance with acceptable standards of engineering principles. All such improvements shall be installed by and at the expense of the developer in conformance with approved construction plans as referenced by the applicable Land Development Permit.

D. **Conformity with land use, density, and concurrency regulations.** Prior to consideration of any subdivision for approval under the terms of this article, the land proposed to be subdivided shall:

1. Be of sufficient land area to comply with the density and consistency requirements and provisions of the Administration and Land Use Elements of the Comprehensive Plan;

2. Be in the proper zoning district and have the necessary zoning approvals required for the intended use; and

3. Have received a Certificate of Concurrency Reservation, Conditional Concurrency Reservation, non-expired Concurrency Exemption or Concurrency Exemption Extension, pursuant to Art. 11.

E. **Site suitability.** Subdivision of land unsuitable for the proposed type or extent of development shall not be approved unless adequate methods of correction or mitigation are formulated and approved in accordance with the provisions of this article. The County Engineer may determine that land is unsuitable for subdivision due to unstable or poorly drained soils, frequent inundation, existence of environmentally sensitive or protected areas, inadequate legal or physical access to the proposed subdivision, or conditions or features deemed to be harmful to the health, safety and general welfare of future residents or the public.

SEC. 8.4 APPLICATION OF ORDINANCE.

A. **General application.** No person shall create a subdivision or develop any lot within a subdivision in unincorporated Palm Beach County except in conformity with this article. No Final Plat or certified survey of any subdivision shall be recorded unless such subdivision meets all applicable provisions of this article, the provisions of other applicable County ordinances, and the applicable laws of the State of Florida. Provided, however, that the subdivision of contiguous lands under single ownership where none of the resulting lots are less than forty (40) acres shall not be subject to compliance with the provisions of this article, unless such compliance is required as a specific condition of a development order for a conditional use or special use approved pursuant to Article 5.

B. **Building permits and other approvals.**

1. Except as provided in Sec. 8.4.B.2, no building permit shall be issued for any structure on any lot created by subdivision of land in violation of this article unless and until such lot is shown on a plat of record or certified survey, as applicable, recorded in the manner prescribed in this article.

2. Temporary structures and permanent structures having a temporary use may receive a building permit prior to recordation of the Final Plat for the property only when the use and location have been approved by the Development Review Committee and shown on the approved Final Subdivision Plan.

SEC. 8.5 PREVIOUSLY APPROVED OR PLATTED SUBDIVISIONS.

A. **Active subdivision development.** All active subdivision developments and all modifications to previously platted subdivisions shall be subject to the requirements of this article in accordance with the provisions of Sec. 1.5.

1. **Subdivision developments which are committed developments or deemed vested.** Any development which constitutes a committed development under the Comprehensive Plan and the concurrency exemption ordinance, Ordinance No. 89-35, or which has otherwise been deemed vested under Florida law, is hereby deemed an active subdivision plan or preliminary plat, as applicable.

2. **Modifications to an active subdivision plan or preliminary plat.** Modifications to an active subdivision plan or preliminary plat shall subject the development to the requirements of this article when:

   a. The modification of an active subdivision plan for a planned development cannot be approved by the Development Review Committee in accordance with the authority granted to it under Sec. 5.6; or

   b. The modification of an active subdivision plan or preliminary plat constitutes more than a minor deviation such that, in the opinion of the County Engineer, the construction plans for the required improvements require a new submittal and review.

3. **Abandonment of active subdivision plan or preliminary plat.** When the developer fails to seek subsequent approvals and permits within the time frames required by this article, such failure shall be evidence that the active subdivision plan or preliminary plat has been abandoned and all approvals granted for the subdivision plan, construction plans, or preliminary plat, as applicable, shall be deemed void.

4. **Authority of the Development Review Committee.** The Development Review Committee shall have the authority to review any previously approved subdivision development which does not meet the strict requirements of this article and to declare the master plan, final land use plan, preliminary or final plat (and accompanying construction plans), special exception subdivision approval, or site plan, as applicable, to be an active approval when the Committee finds that such declaration would be in accordance with the purpose and intent of this article and in the best interest of the general public. Such review shall be made upon application by either the developer or the County Engineer, which application shall be on a form prescribed by the Committee.

5. **Fees waived for applications by the County Engineer.** Any fee required for an application made pursuant to this section is hereby waived for all applications made by the County Engineer.

B. **Non-conforming subdivisions.** The official records of Palm Beach County contain plats recorded prior to February 5, 1973. Such plats show areas within Palm Beach County which have been platted as subdivisions, but which have either been partially improved or developed or remain unimproved or undeveloped. These areas, if developed or improved further as platted, would not conform to the policies and objectives of the Comprehensive Plan for such areas.

1. **Authority of the Board to vacate non-conforming plats.** The Board of County Commissioners shall have the power, on its own motion, to order the vacation and reversion to acreage of all or any part of a subdivision within unincorporated Palm Beach County, including the vacation and abandonment of streets or other parcels of land dedicated for public purposes and the vacating of streets and other parcels of land reserved for the use of the owners, including lands maintained by a property owners association, when:

a. The subdivision plat was recorded as provided by law prior to February 5, 1973; and

b. Within the subdivision plat or part thereof proposed to be reverted to acreage, not more than ten (10) percent of the total number of platted lots have been sold to individual owners by the original subdivider or his successor in title.

C. **Authority of owners to develop non-conforming subdivisions which are subject to vacation by the Board.** The owner or owners of a subdivision subject to vacation and reversion to acreage by motion of the Board of County Commissioners may either abandon the subdivision or portion thereof in accordance with the procedures of the Board, or may improve undeveloped or partially improved streets and drainage facilities at their cost and expense, provided such improvements shall comply with the provisions of this article.

D. **Public hearing required.** Prior to ordering such a vacation and reversion to acreage, the Board of County Commissioners shall hold a public hearing relative to the proposed vacation and reversion to acreage, with prior notice thereof being given by publishing in a newspaper of local circulation the date of and the subject matter of the hearing at least twice within the two (2) week period preceding the date of such public hearing. At such public hearing, the vacation and reversion to acreage of subdivided land must be shown to either conform to the Comprehensive Plan or reduce the nonconformity with the Comprehensive Plan.

E. **Legal access to be maintained.** No owner of any parcel of land in a subdivision vacated and returned to acreage or abandoned by the owners shall be deprived by the reversion to acreage or abandonment of any part of the subdivision of reasonable access to such parcel nor to reasonable access therefrom to existing facilities to which such parcel has theretofore had access. Such access remaining or provided after such vacation and reversion or abandonment may not necessarily be the same as theretofore existing, but shall be reasonably equivalent thereto.

F. **Improvement of existing partially developed non-conforming subdivisions not subject to vacation and reversion to acreage by motion of the Board.** The improvement of non-conforming subdivisions not subject to vacation and reversion to acreage by motion of the Board of County Commissioners shall comply with the requirements of this article and the following.

1. **Streets.** The existing right-of-way for a local street shall be considered sufficient provided it is at least fifty (50) feet wide and the improvements conform to the fifty (50) foot typical section or sixty (60) feet wide and the improvements conform to the sixty (60) foot typical section for local street construction as contained in the County standards. If the existing right-of-way is less than fifty (50) feet wide, additional right-of-way shall be provided to make a total width of not less than fifty (50) feet.

2. **Positive drainage.** Positive drainage shall be established or its existence proven, meeting all requirements for connection to a point of legal positive outfall. Easements for proper drainage shall be provided where necessary at a width adequate to accommodate the drainage facilities, but in no case shall said easement width be less than twelve (12) feet. Where canals or ditches are permitted, the easement width shall be adequate to

accommodate the full width of drainage facilities plus twenty (20) feet on one side to permit access by equipment for maintenance purposes.

SEC. 8.6 PLANNED DEVELOPMENTS.

Any planned development which is to be subdivided shall comply with the requirements of this article after approval of a Final Subdivision Plan by the Development Review Committee pursuant to Sec. 5.6 and within the time limitations of Table 5.8-1 where more restrictive. For the purpose of this article, "Planned Development" shall mean any development within a Planned Development district as defined by this Code and regulated pursuant to Sec. 6.8 .

SEC. 8.7 ALTERNATE DESIGNS FOR RURAL SUBDIVISIONS.

A. **Applicability.** This section provides for a means of establishing a rural subdivision, as defined by this Code, in harmony with the character of surrounding development while meeting the general purpose and intent of this article. Due to the rural nature of proposed development, standard requirements for certain required improvements may be deemed inappropriate and alternative standards for such improvements may be approved under this section.

B. **Application requirements.** Upon submission of the subdivision plan, and an application for a rural subdivision designation, the Development Review Committee may approve the application for election to comply with this section. A rural subdivision shall meet the platting requirement of this article.

C. **Exceptions to requirements.** All requirements of this article shall apply except that the following required improvement design options shall be allowed under this section.

1. **Access and circulation systems.** Local streets may be developed without a wearing surface but shall otherwise conform to the standards specified by this article. All other streets of higher classification, as defined in this article, shall be constructed to meet or exceed County standards. Streets constructed without a wearing surface shall be privately maintained and shall not be considered for dedication or acceptance as public streets until paved, reconstructed and tested, as necessary, to meet County Standards. Costs of maintenance and further development of the local streets in a rural subdivision shall be borne solely by the owners of the property within the subdivision. Sidewalks and bike paths shall not be required when local streets are constructed without a wearing surface. The developer and any subsequent owner/seller shall fully disclose to the purchaser the method of payment of costs of maintenance and improvements of local streets developed without a wearing surface. The developer shall adequately warrant, by recorded covenant, that the County will not be liable for cost of maintenance or further development of local streets constructed without a wearing surface. The method and form of said disclosures and covenants shall be subject to approval by the County Attorney, prior to recordation of a final plat for such subdivision.

2. **Wastewater system.** Rural subdivisions within the Rural Service Area may utilize an individual system in accordance with Sec. 8.25.

3. **Potable Water system.** Rural subdivisions within the Rural Service Area may utilize an individual system in accordance with Sec. 8.26.

4. **Utilities installation.** Utilities may be installed above ground in rural subdivisions.

SEC. 8.8 PHASED DEVELOPMENTS.

A. The property encompassed by a Final Subdivision Plan may be developed in two (2) or more increments pursuant to the terms of this section. A Final Subdivision Plan showing the proposed phasing plan must be approved by the Development Review Committee prior to submission of the first plat. Construction plans and preliminary plats shall coincide with their respective phases as shown on the Final Subdivision Plan. Construction plans or a preliminary plat for a partial phase shall not be accepted.

B. The improvements of each phase shall be capable of operating independently of any unconstructed phase with respect to drainage, access, utilities, and other required improvements, except as provided herein. A dependent phase may be constructed if the improvements of the foundation phase are under construction pursuant to a land development permit; provided, however, if the required improvements of any unconstructed foundation phase are not secured pursuant to a guarantee posted with a Contract for Construction of Required Improvements, then the required improvements for all phases dependent on the foundation phase shall only proceed if a sufficient guaranty has been posted to fund the completion of all interdependent improvements in both the foundation phase and the dependent phases. A dependent phase shall not be acknowledged as completed until the improvements in the foundation phase are acknowledged as completed; provided, however, that such acknowledgement of completion may occur simultaneously and provided that the County Engineer may permit the posting of surety to guarantee the installation at a later time of those required improvements which are not deemed necessary to provide drainage, access, or utilities to a such phases.

C. The phasing plan and all phased construction shall conform to any phasing plan approved under the Certificate of Concurrency Reservation.

D. The phasing plan and all phased construction shall be completed in accordance with any phasing controls and time frames required by this Code which are applicable to the development.

E. When the Final Subdivision Plan is to be developed in phases requiring more than one (1) final plat, successive plats must be filed so that construction and development activity shall be of a reasonably continuous nature. In no event, however, shall more than two (2) years elapse between the recording of successive plats, unless the time is extended as provided herein. Upon the expiration of any time period plus allowable extensions established by this section, the approval for all remaining unplatted phases of the subdivision shall be subject to mandatory review by the Development Review Committee or, if a planned development, by the Board of County Commissioners pursuant to the requirements of Table 5.8-1.

F. When the Final Subdivision Plan is to be constructed in phases, the following sequence must be adhered to:

1. All required recreation areas and facilities to serve the entire development shall be platted or otherwise provided pursuant to the procedures and phasing provisions of Sec. 7.12.

2. The gross density of an individual plat shall not exceed the maximum density permitted for the entire development unless the total of all previously recorded plats of record and the plat under review produces an average density less than or equal to the approved maximum density for the entire development.

3. Where all or any portion of a water management tract is required to serve a proposed phase of development, and has not been previously recorded and constructed, said water management tract and its associated lake maintenance easement(s) shall be included and constructed in their entirety as part of the plat and required improvements for that phase.

G. **Administrative time extension.** Except for subdivisions approved as planned developments, the County Engineer may extend the time for recording successive plats for a total of no more than two (2) years. Each time extension shall not exceed one (1) year in length and the total amount of all extensions shall not exceed two (2) years. For subdivisions approved as planned developments, time extensions may be granted pursuant to Table 5.8-1.

SEC. 8.9 EXCEPTIONS TO GENERAL REQUIREMENTS.

A. **Authority.** The County Engineer is hereby empowered to make certain exceptions to the platting requirement of Sec. 8.3.A and required improvements installation requirement of Sec. 8.3.B in accordance with the standards and procedures set forth in this section.

B. **Plat waiver with certified survey.** If, after review of the preliminary subdivision plan, the County Engineer determines that the proposed subdivision meets one of the conditions specified in Sec. 8.9.B.1, the requirement to file a plat may be waived and a certified survey shall be recorded in lieu of a plat along with an affidavit documenting approval of said waiver and restrictive covenants applicable to the subdivision, as prescribed by this article.

1. **Application for plat waiver.** In order to determine whether platting may be waived, the developer shall submit a preliminary subdivision plan in accordance with the requirements of Sec. 8.11 together with a statement demonstrating that the subdivision meets at least one (1) of the following conditions.

a. The division is for the purpose of constructing not more than one (1) townhouse cluster in compliance with applicable use regulations and standards pursuant to Sec. 6.4.

b. The division is to create no more than three (3) contiguous lots and all of the following circumstances apply:

(1) The land concerned is isolated or removed in its relationship to platted lands;

(2) Dedications or reservations are not required for the installation or maintenance of the required improvements; and

(3) The improvements and dedications existing on the land are substantially in accordance with the requirements of this article.

c. The division is of a contiguous land area not exceeding eighty (80) acres into lots of at least ten (10) acres each and which area meets all of the following additional conditions:

(1) The area to be subdivided has existing legal access via a street of local or higher classification, accepted for maintenance by a local governmental agency, a special district, or a legally incorporated property owners association;

(2) Legal access to the proposed lots exists or will be established and dedicated to and be maintained by a property owners association or a special district; and

(3) Legal positive outfall exists and the appurtenant drainage easements are dedicated to, maintained and accepted by either by a property owners' association or water control district.

d. The division consists of a change in lot lines for the purpose of combining lots or portions thereof, shown on a record plat, into no more than three (3) contiguous lots where each of the resulting lots meets the requirements of the Comprehensive Plan and this Code or reduces the degree of non-conformity to the requirements of the Comprehensive Plan and this Code, as applicable, and the establishment of streets or installation of improvements either would not be required pursuant to this article or would be required and their installation would be guaranteed by the developer pursuant to the provisions of this article. Provided, however, that any application hereunder for lands shown on a record plat recorded after February 3, 1973, shall be limited to those changes necessary to correct errors in the record plat or to make a lot line adjustment to accommodate an isolated instance of error in construction of a dwelling unit or other building. In such cases, the improvements shall be in compliance with the standards in effect at the time of recording the plat or with any approved variance to such standards.

e. The lot or lots were created as part of an antiquated subdivision and the County Engineer finds that the subdivision substantially complies with the intent, purposes and requirements of this article. In making such determination, the County Engineer shall consider the following factors and any other information he deems appropriate:

(1) The total area of land encompassed by the antiquated subdivision;

(2) The number of lots created within the antiquated subdivision;

(3) The prior and subsequent subdivision of the area encompassed by the antiquated subdivision and whether such subdivision was platted or otherwise surveyed and placed of record;

(4) The need for dedications or reservations to ensure installation and continued maintenance of the required improvements;

(5) The extent of deviation from the requirements of this article;

(6) The extent of ownership fragmentation, including the number of lots sold and the number of lots developed;

(7) The degree of compliance with other County land development regulations, including but not limited to the Comprehensive Plan and this Code;

(8) The number of lots to be created; and

(9) The extent of development in the surrounding area.

f. The combination or recombination of lots is required in order for the new lot or lots to meet the density requirements of the Comprehensive Plan.

2. Decision by County Engineer. In determining if platting may be waived, the County Engineer shall distribute each application to, and consider recommendations received from the following agencies regarding conformance with requirements of their respective regulations and program responsibilities:

a. The Directors of the Land Development and Traffic Divisions, and Survey Section of the Engineering Department;

b. The Directors of the Planning, Zoning, and Building Divisions;

c. The Director of Environmental Resources Management;

d. The County Health Director ;

e. The Director of Water Utilities;

f. The Chief of Fire Rescue;

g. The Director of Parks and Recreation;

h. The County Attorney; and

i. The Director of Property and Real Estate Management.

3. Effect of approval. The approved certified survey shall constitute the approved Final Subdivision Plan for the subdivision when such subdivision is not encompassed by a Final Subdivision Plan approved pursuant to Sec. 5.6. The granting of a plat waiver in no manner reduces or waives the requirements of Secs. 8.13 through 8.17 governing construction plan approval, land development permit issuance, and installation of the required improvements. Failure by the applicant to submit all documents required for the recordation of the affidavit of waiver within six (6) months of approval by the County Engineer shall void said approval.

C. Exceptions to installation of improvements requirement. If, after review of the preliminary subdivision plan, the County Engineer determines that certain improvements already existing on the proposed subdivision site are adequate to meet the intent of the required improvements requirement of this article, the installation of those required improvements may be waived.

1. Application for required improvement installation waiver. The developer shall submit a Preliminary Subdivision Plan in accordance with the requirements of Sec. 8.11 together with a statement demonstrating that the applicable improvement(s) and associated dedications existing on the land and serving the proposed lot(s) are substantially in accordance with the requirements of this article.

2. Effect of approval. The granting of a required improvement(s) installation waiver in no manner reduces or waives the requirement of this article to file a plat and to comply with applicable provisions of Secs. 8.13 through 8.17 with regard to all required improvements not specifically waived.

D. Contents of applications. Applications made pursuant to this article shall be submitted in a form established by the County Engineer, prescribed in the Land Development Forms Manual, and made available to the public. Contents of said applications shall include the submittal requirements for preliminary subdivision plans contained in Sec. 8.11.

SEC. 8.10 ADMINISTRATION OF ARTICLE.

A. Powers and duties of the County Engineer. The County Engineer shall be deemed the administrative officer for the purpose of coordinating, enforcing and administering provisions of this article. The responsibilities of the County Engineer may be delegated in whole or in part. The County Engineer shall adopt policies and procedures for administering and enforcing the

provisions of this article including, but not limited to the setting of fees pursuant to the policies of the Board and establishment of submittal requirements and criteria for review of final subdivision plans by the Development Review Committee.

B. **Exceptions to General Requirements.** The County Engineer shall review and act on applications for exceptions to this article pursuant to Sec. 8.9. Such authority shall include the power to:

1. Waive compliance with the procedures of Secs. 8.13 through 8.17 when the County Engineer finds that compliance with such procedures is unnecessary because:

   a. The proposed subdivision has been granted both a plat waiver and a waiver for all required improvements for the property; or

   b. The proposed subdivision has been granted both a plat waiver and a waiver for some of the required improvements and installation of the remaining improvements will be assured by one of the following methods:

      (1) contribution of cash; or

      (2) construction of the required improvements will occur at the time of building construction and the installation of such improvements can be monitored as part of the building permit process or other County permitting process. Such improvements include, but are not limited to, drainage improvements requiring lot grading only, and installation of well and/or septic tank; or

      (3) a combination of (1) and (2) above.

2. Review any and all restrictive covenants applicable to a subdivision under review for a plat waiver;

3. Require additional information or reviews deemed necessary for its consideration. Such information may include, but is not limited to, written and oral statements with respect to the nature, condition and maintenance responsibility of the streets, stormwater management facilities, or other required improvements, and reviews by other County and State agencies, and any information necessary to assure that the proposal would conform to the Comprehensive Plan or reduce the degree of non-conformity to the Comprehensive Plan; and

4. Upon determining the facts of each application, determine whether:

   a. The proposal would be in harmony and compatible with present and future development of the area as contemplated under the Comprehensive Plan, and

   b. The proposal makes adequate provisions for public requirements, including safe and convenient vehicular and pedestrian circulation, access, stormwater management, utilities, water supply and wastewater disposal.

SEC. 8.11 PRELIMINARY SUBDIVISION PLAN.

A. **Purpose of preliminary subdivision plan.** The purpose of the preliminary subdivision plan is to provide adequate and necessary descriptive information regarding proposed subdivision layout and improvements for review of applications made under Sec. 8.9 for plat waivers and for required improvement(s) installation waivers.

B. **Professional services required.** The developer shall retain the services of an engineer or surveyor to prepare the preliminary subdivision plan . The subdivision plan shall be coordinated with the major utility suppliers involved with providing services. Where septic tanks are proposed, a satisfactory subdivision analysis for septic tanks from the PBCPHU shall be required.

C. **Contents of application.** The developer shall submit a written statement and drawing in the form established by the County Engineer, prescribed in the Land Development Forms Manual, and made available to the public.

SEC. 8.12 FINAL SUBDIVISION PLAN.

A. **Purpose.** The purpose of the Final Subdivision Plan is to provide a multi-agency review at a level of detail adequate to identify and resolve basic errors, omissions, and conflicts in the proposed subdivision layout with respect to applicable agency concerns, code requirements, and surrounding land uses, prior to the preparation of the detailed preliminary plat(s) and associated construction plans for required improvements.

B. **Applicability.** Except as provided in Sec. 8.9.B, the developer of every proposed subdivision shall be required to obtain approval of a Final Subdivision Plan from the Development Review Committee, pursuant to Sec. 5.6, prior to submittal of a preliminary plat and construction plans for Technical Compliance approval pursuant to Sec. 8.13.

C. **Procedure.**

1. **Application.** Application for Final Subdivision Plan approval shall be made in accordance with Sec. 5.6.

2. **Concurrency requirement.** In order to be eligible to submit an application for Final Subdivision Plan review, the development shall have obtained the following approvals in accordance with the Comprehensive Plan and Art. 11.

   a. Certification for Density; and

   b. Certification for Consistency with Plan and Code; and

   c. either a Certificate of Concurrency Exemption Extension or a Certificate of Concurrency Reservation.

   A copy of each currently valid certificate shall be attached to and made part of the application.

3. **Contents of application.** The application shall be submitted in a form established by the County Engineer, prescribed in the Land Development Forms Manual, and made available to the public. Contents of said application shall include, but not necessarily be limited to:

   a. A unified drawing prepared by a professional engineer or professional land surveyor, describing existing site conditions, proposed streets, proposed lot layout, and other applicable development features in pictorial, note, or tabular form as appropriate;

   b. An internal traffic circulation analysis prepared by a professional engineer, adequate for determining the required classification of streets, the number of lanes, the requirement for traffic lights and other traffic control devices, and the capacity of the street system proposed or affected by the development, as well as the phasing of improvements;

   c. A preliminary stormwater management plan outlining the conceptual tertiary and secondary stormwater management facilities proposed for proper development of the subdivision; and

   d. A statement that all applicable utility providers have agreed to serve the subdivision, except that where septic tank systems are proposed, a satisfactory subdivision analysis for septic tanks from the PBCPHU shall also be submitted.

4. **Resubmittals.** A new Final Subdivision Plan application shall be required for more than one resubmittal required due to corrections or revisions requested by the Development Review Committee or for any revision by the developer.

D. **Development Review Committee action.** The Development Review Committee shall inform the developer that the plan and data as submitted do or do not meet the applicable provisions of this article in accordance with the procedures established pursuant to Sec. 5.6.D.

E. **Expiration of Final Subdivision Plan approval.** Approval of a Final Subdivision Plan shall expire two (2) years from the effective date unless:

1. The developer has received a development order for recordation of the subdivision plat, or the plat for at least one approved phase of the development, and is continuing development of the subdivision in accordance with such approval and pursuant to the terms of this article, in which case the Final Subdivision Plan shall remain valid for as long as the subsequent approvals are effective; or

2. In the case of any Planned Development for which Final Subdivision Plan approval relied on a prior or concurrent zoning approval , such Final Subdivision Plan shall be valid for the same time period set forth for the applicable zoning approval pursuant to Sec. 5.8. or

3. Except for subdivisions approved as planned developments, an extension of time is granted pursuant to Sec. 8.12.F.

F. **Extensions of time.** If, after review of an application for an extension of time, the County Engineer finds that the developer could not proceed with platting of the subdivision due to reasons beyond the developer's control, the County Engineer may grant an extension in accordance with this subsection. A maximum of two (2) extensions may be granted . Each extension shall only be valid for one (1) year and a new application must be submitted and reviewed for each possible extension. Provided, however, that any lesser time granted under this Code for a Planned Development shall control.

SEC. 8.13 TECHNICAL COMPLIANCE.

A. **Purpose.** The purpose of Technical Compliance is to provide a multi-agency review of the proposed subdivision plat and all applicable required improvement construction plans for conformance with technical and legal requirements of this article, other applicable provisions of this Code, the County Standards, and the approved Final Subdivision Plan (including any special conditions of approval) prior to application by the developer for issuance of a Land Development Permit and submittal of the Final Plat for recordation.

B. **Application.** Prior to the expiration of the Final Subdivision Plan approval and prior to commencing construction of required improvements, the developer shall have prepared and shall submit to the County Engineer an application for Technical Compliance review, which shall be accompanied by the required fee and the required number, as established by the County Engineer, of the following documents and information, as applicable to the subdivision or approved phase thereof. Within three (3) days of receipt of an initial application submittal for Technical Compliance, the County Engineer shall review the submittal for completeness and shall send written notification to the applicant if the submittal is determined to be incomplete. Failure by the

applicant to complete the application submittal within sixty (60) days of the date of said notification shall be considered an abandonment of the application and any subsequent submittal shall require a new Technical Compliance application.

1. **Preliminary plat.** The developer shall submit the preliminary plat meeting the requirements of Sec. 8.20.A.

2. **Certified survey.** The developer of a subdivision for which the requirement to plat has been waived pursuant to Sec 8.9.B. shall submit the applicable certified survey meeting the requirements of Sec. 8.19.

3. **Construction plans and supplemental engineering reports.** Except for those required improvements which have been specifically waived pursuant to Sec. 8.9.C, construction plans and supporting design information for all the required improvements shall be submitted for each subdivision. Construction plans and required engineering reports shall comply with the requirements of Sec. 8.16.

4. **Certified opinion of cost.** The developer's engineer shall prepare and submit a certified opinion of cost, which shall include the cost of installing all required improvements required pursuant to Sec. 8.21.A. In the alternative, the County Engineer may, at his sole discretion, accept the contract price received by the developer for the construction of the required improvements.

C. **Review of the Technical Compliance submittal.**

1. **Agency comments.** Within five (5) days of receipt of a complete application, the County Engineer shall forward copies of appropriate submittal documents to the following agencies for written comments regarding conformance with requirements of their respective regulations and program responsibilities:

   a. Director, Land Development Division of DEPW: construction plans and preliminary plat;

   b. Director, Traffic Division of DEPW: construction plans and preliminary plat;

   c. Director, Survey Section of DEPW: preliminary plat;

   d. Director, Zoning Division of PZ&B: preliminary plat;

   e. Director, Planning Division of P&B: preliminary plat;

   f. Director, Parks and Recreation Department: preliminary plat;

   g. Director, Roadway Production Division of DEPW: construction plans and preliminary plat for Thoroughfare Plan streets;

h. Director, Environmental Resources Management: preliminary plat;

i. Florida Department of Transportation: preliminary plat for lands abutting State roads;

j. Local water control district: preliminary plat for lands abutting water control district facilities, easements, or rights-of-way;

k. County Attorney: preliminary plat; and

l. Director of Property and Real Estate Management: preliminary plat.

Said agencies shall be given twenty (20) days to forward comments to the County Engineer. Within five (5) days of the end of this twenty (20) day period, the County Engineer shall forward all comments to the developer in writing, with a copy to the developer's engineer.

2. Submittal fails to meet requirements. When the County Engineer determines that the Technical Compliance application submittal does not meet the provisions of this article, the written statement shall reference the specific section or standard with which the submittal does not comply. Within sixty (60) days of receipt of the comments letter, the developer shall cause all corrections or revisions referenced in the comments letter to be made, and shall resubmit the required documents and information. Failure to resubmit within the required time shall be deemed an abandonment of the application and any subsequent submittal shall require a new Technical Compliance application.

3. Submittal meets requirements. When the County Engineer determines that the Technical Compliance application submittal meets the provisions of this article, the submittal shall be deemed to technically comply with the provisions of the article and a written statement of Technical Compliance shall be issued.

D. Technical Compliance approval. The statement of Technical Compliance shall be in writing and furnished to the developer and the developer's engineer. The statement shall contain the following conditions and information:

1. The name of the documents reviewed;

2. The amount of surety for the construction of required improvements, established in accordance with Sec. 8.14.A.6;

3. The amount of recording fees due for recordation of the final plat or certified survey, which fees are payable to the Clerk of the Circuit Court of Palm Beach County;

4. A requirement to submit with the Land Development Permit application a copy of all applicable property owners' association documents; and

5. Requirements for submittal of supplementary documentation deemed necessary by the County Engineer, such as deeds, easements, covenants and other recorded instruments creating rights or obligations for access, drainage, or utility services, which rights or obligations could not be established through dedications or reservations on the plat.

E. **Expiration of Technical Compliance.** The statement of Technical Compliance shall expire (6) months after its date of issuance. Failure to make a Land Development Permit application submittal prior to the expiration of the statement of Technical Compliance shall void the Technical Compliance approval and any subsequent submittal shall require a new Technical Compliance application.

F. **Effect of changes to Final Subdivision Plan.** Any change to a Final Subdivision Plan, however approved, which would either increase or decrease the number of units in, or would, in the opinion of the County Engineer, cause a substantial change or revision to any preliminary plat or associated construction plans under review or approved for Technical Compliance shall void any approvals issued for same pursuant to this article and shall require a new submittal and fee for such plat and construction plans. Such determination shall be in writing and forwarded within ten (10) days to the Developer's Engineer, with a copy to the Zoning Director.

SEC. 8.14 LAND DEVELOPMENT PERMIT.

A. **Land Development Permit Application submittal.** A Land Development Permit shall be required prior to commencement of construction of any required improvement. The effective date of the Land Development Permit shall be the date the County Engineer signs it. The Land Development Permit shall expire not more than twenty-one (21) months from the effective date, unless extended pursuant to Sec. 8.17.B. Except when the installation of all required improvements has been waived pursuant to Sec. 8.9.C, the Final Plat or certified survey, as applicable, shall not be recorded until the developer has either installed the improvements or has guaranteed the installation of the improvements pursuant to the requirements of Sec. 8.14.A.6, below. As the final step in the review procedures to obtain development approval under this article, the developer shall have prepared and shall submit, prior to expiration of the Technical Compliance, an application for Land Development Permit. The application for Land Development Permit shall be accompanied by the required fee and the required number, as determined by the County Engineer, of the following documents applicable to the subdivision or approved phase thereof:

1. **Final plat.** Developments which are platting shall submit the Final Plat complying with Sec. 8.20.B, and a check for the plat recordation, payable to the Clerk of the Circuit Court of Palm Beach County, in the required amount.

2. **Certified survey.** Developments for which the requirement to plat has been waived pursuant to this article shall submit a check payable to the Clerk of the Circuit Court of Palm Beach County for the recordation of the survey. When construction plans are not required, the certified survey may be recorded without further review, provided, however, that the County Engineer shall review any documents submitted in compliance with Sec. 8.14.A.3.

3. **Maintenance and use documents and other documents.** A copy of the maintenance and use covenants and any other documents required by the County Engineer as a condition of Technical Compliance shall be submitted. The maintenance and use covenants shall indicate the maintenance responsibility for all common areas and improvements within the subdivision, and shall comply with all applicable requirements as specified in Sec. 7.15.

4. **Construction plans and supplemental engineering information.** Construction plans shall conform with the plans which received Technical Compliance or, if modified, shall be accompanied by a written statement from the Developer's engineer which details, explains, and justifies the modifications. Construction plans shall comply with the requirements of Sec. 8.16 and, prior to issuance of a Land Development Permit, shall have received all applicable approvals of requisite governmental agencies.

5. **Contract for Construction of Required Improvements.** The application shall indicate whether the required improvements are to be constructed prior to recordation or after recordation of the plat or survey. When the required improvements are to be constructed after recordation, a bonded contract for the construction of the required improvements shall be submitted. It shall be executed in triplicate by all owners of record. The contract shall be in the form contained in the latest version of the Land Development Forms Manual. The agreement shall incorporate and have attached to it the guaranty required by Sec. 8.14.A.6 below.

   If the developer wishes to substitute the form of guaranty after the contract and guaranty have been approved by the Board, he must submit an amendment to the contract. The amendment shall be in the format found in the Land Development Forms Manual.

6. **Guaranties.** All guaranties shall be in one of the forms prescribed in the Land Development Forms Manual or in an alternate form approved by the County Attorney. The initial guaranty shall be in an amount equal to one hundred ten (110) percent of the construction cost of the required improvements. The guaranty shall be in one of the following types.

   a. **Cash bond.** The contract may be secured by cash deposited by the developer with the County or in an account subject to the control of the County in accordance with an agreement on such deposit or account. The developer shall be entitled to receive any interest earned on such deposit or account.

   b. **Letter of credit.** The contract may be secured by a clean irrevocable letter of credit issued to the County in accordance with the County Letter of Credit Policy. The expiration date of the letter of credit shall be at least three (3) months after the completion date for construction of required improvements pursuant to the initial contract or any subsequent extension thereto.

   c. **Performance or surety bond.** The contract may be secured by a performance or surety bond obtained from a company acceptable to the County in accordance with the County policy on performance bonds. It shall guarantee that all work

will be completed in full accordance with the approved Land Development Permit.

d. Escrow deposit. The contract may be secured by an executed escrow agreement, between the Developer, a bank approved by the County, and the County as the third party beneficiary. The escrow agreement shall require that release of the funds, or any part thereof, shall be subject to County approval.

B. Action by the County Engineer. The County Engineer shall examine the submittal for completeness in compliance with this article. Within thirty (30) days of receipt of a complete submittal, the County Engineer shall review the submittal for conformity with this article and shall advise the developer of his findings in writing, with a copy to the developer's engineer.

1. Submittal fails to meet ordinance. When deficiencies exist, the County Engineer shall reference in writing the specific section or standard with which the Land Development Permit submittal does not comply. The developer shall correct such deficiencies within thirty (30) days of receipt of the written report. Failure to respond within the given time shall deem the submittal abandoned and any subsequent submittal shall require a new application and submittal for a Land Development Permit.

2. Submittal meets ordinance. When the submittal meets the provisions of this article, the County Engineer shall sign the Land Development Permit and, if applicable, shall schedule on the next available Board agenda the contract for construction of required improvements, the guaranty, and the plat for approval by the Board.

SEC. 8.15 SUBSTITUTION OF DEVELOPERS.

A. Voluntary substitution of developers. When there is a voluntary substitution of developers after the Land Development Permit has been issued but before the County has acknowledged completion of the required improvements, it shall be the responsibility of both developers to transfer the rights and responsibilities from the original developer to the succeeding developer. The succeeding developer shall apply to the County Engineer for a transfer of the original developer's Land Development Permit. If the original developer entered into a contract for construction of required improvements and posted a guaranty with the County, then he must assign those rights and responsibilities to the succeeding developer. Both developers must sign an Assignment and Assumption Agreement, and the succeeding developer must enter into an agreement with the County relating to the Assignment and Assumption Agreement. All forms are in the Land Development Forms Manual.

B. Involuntary substitution of developers. When a developer becomes the succeeding developer through foreclosure or some similar action and it is not possible to obtain the original developer's signature on an Assignment and Assumption Agreement, the succeeding developer must enter into an agreement with the County in which he assumes the original developer's rights and responsibilities. He must also apply to the County Engineer for a transfer of the Land Development Permit.

SEC. 8.16 CONSTRUCTION PLANS AND SUPPLEMENTAL ENGINEERING INFORMATION.

A. **Duties of developer's engineer.** When the development is to be engineered by more than one firm, the developer shall appoint a single engineering firm or engineer to coordinate submission of the construction plans and construction of the required improvements.

B. **Submittal requirements.** Construction plans and supplemental engineering information shall be submitted under separate cover for each of the categories of improvements listed in this section. Plan sets shall be submitted in the number required by the County Engineer, as prescribed in the Land Development Forms Manual.

1. **Submittals for required improvements.** The following construction plans shall be submitted for the required improvements set forth in Sec. 8.21, when applicable. Construction plans shall be signed and sealed by the preparing engineer.

a. Paving, grading and drainage;

b. Bridges;

c. Water and sewer systems:

(1) for technical compliance submittal: the proposed plans submitted for Public Health Unit approval;

(2) for land development permit submittal: construction plans stamped with Public Health Unit approval.

2. **Submittals for other improvements.** Construction plans shall be submitted for the following additional improvements which the developer may elect to construct:

a. Landscaping, guardhouse, gates or other structures within streets;

b. Landscaping or structures in lake maintenance easements: See Sec. 8.18.A.

C. **Completeness of construction plans.** All construction plan submittals shall be so complete as to be suitable for contracting and construction purposes. Design data, calculations and analyses shall be submitted to address important features affecting design and construction and shall include, but not be limited to, those for design high water, drainage facilities of all kinds, subsurface soil data, alternate pavement and subgrade types, and any proposed deviation from County standard design requirements.

D. **Format and content of construction plans for required improvements.** All construction plan submittals for the installation of required improvements shall consist of and contain, but shall not be limited to:

1. A cover sheet showing the applicable plat name, sheet index, category of improvements, and, vicinity sketch;

2. Typical sections;

3. Construction details showing compliance with County standards, or with any alternate design approved by the County Engineer pursuant to Sec. 8.18.C;

4. Special profile sheets as required to show special or unique situations;

5. Bench mark, based on NGVD (1929);

6. Notes regarding special conditions and specifications applicable to the construction, addressing:

   a. required compliance with construction requirements of this article and the County standards;

   b. required compliance with State standards applicable to the work;

   c. minimum standards for materials;

   d. test requirements for compaction or stabilization of subgrade, base, and backfill;

   e. required installation of underground utilities and storm drainage located within the streets prior to construction of subgrade for street pavement;

   f. special construction or earthwork requirements for site work in areas of nonpervious or unstable soils, or to cope with unsuitable soil conditions.

7. Depiction of all parking areas required to be constructed by Sec. 8.22, clearly identifying and delineating each clustered lot and each parking area serving more than one clustered lot when such lots do not abut a street.

E. **Final stormwater management plan.** The Technical Compliance application shall include the final stormwater management plan, based upon and consistent with the preliminary stormwater management plan, in separate report form detailing the design of all secondary and tertiary stormwater management facilities, including, as a minimum, the following design data and information:

1. Pre-development and post-development drainage basin maps showing site topography, drainage basins, catchment areas, and stormwater inflow/outflow locations for the site;

2. Pre-development and post-development site characteristics affecting runoff such as ground cover, soil profile, wet season mean high water table elevations and recurring high water elevations in receiving watercourses or waterbodies;

3. Individual catchment area characteristics used for design, including area, times-of-concentration, runoff factors, and quantitative breakdown of pervious/impervious areas;

4. A statement of applicable design and/or performance assumptions and criteria for each part of the system providing drainage, treatment, or discharge control;

5. Evidence of existing access to legal positive outfall(s);

6. Complete hydrologic and hydraulic calculations for design of storm sewers, retention/detention area, and discharge structures;

7. Identification of standard methods and/or proprietary models used for hydrologic and hydraulic analysis, noting that methods or models other than those of the Department of Transportation, South Florida Water Management District, SCS, the rational method, the SBUH method, the Puls method or common modifications of such methods, may require additional documentation;

8. A listing of specific County and South Florida Water Management District requirements used as the design basis for street drainage, lot grading, finished floor elevations, floodplain storage compensation, retention/detention volumes, and discharge limits; and

9. Requirements for construction and maintenance of any temporary or phased stormwater management facilities necessary to ensure proper stormwater control and treatment during site development.

F. **Soils report.** The Technical Compliance application shall include a soils report describing soil profiles of the work site to such depth and extent necessary to determine special design or construction needs. In lieu of Sections 8.16.F.4 and 5, the Developer may submit as part of the report a certified statement from an engineer that he has investigated the subsurface conditions of the site and has determined that such conditions are suitable for the work as shown on the construction plans. The soils report shall include:

1. A map, drawn to stated scale, showing boring, penetrometer, and/or test pit locations;

2. Results of each boring or other soil test, keyed to the map;

3. Soil profiles with horizons described according to the USDA, ASTM, or Unified standard soils classified system;

4. Location and extent of muck, hardpan, marl, or other deleterious materials which may require special consideration in design or construction; and

5. A description of groundwater conditions which may require special consideration in design or construction.

SEC. 8.17 CONSTRUCTION OF REQUIRED IMPROVEMENTS.

A. **Developer's duty.** Upon issuance of the Land Development Permit, the developer shall coordinate the construction with the County Engineer.

B. Time of completion of required improvements.

1. The time of completion of all required improvements shall not exceed twenty-one (21) months from the date of issuance of the Land Development Permit unless an extension is granted pursuant to this section.

2. A one (1) year time extension may be granted by the County Engineer after review of the written application for extension of the developer. The developer should submit the application for extension, including but not limited to a statement of justification and proof that an acceptable guaranty will remain in place for the duration of the extension, not less than two (2) months prior to expiration of the Land Development Permit. Applications submitted after expiration of the Land Development Permit shall not be accepted. The County Engineer shall review and advise the developer in writing of his decision within one (1) month of receipt of the application.

C. Completion prior to recordation. When the developer elects to complete required improvements prior to recording of the final plat or certified survey, the following procedures shall apply, as applicable.

1. Upon approval of the signed Final Plat by the County Engineer and acknowledgement of completion of the required improvements pursuant to Sec. 8.17.G, the plat shall be submitted to the Board for recordation approval at the next available scheduled meeting.

2. When the County Engineer finds that the certified survey and completion of the required improvements are in compliance with all requirements of this article, he shall cause the certified survey to be recorded in the Office of the Clerk of the Circuit Court.

D. Completion after recordation. When the developer elects to guarantee the construction of the required improvements in order to complete same after recordation, the County Engineer may approve reductions of the amount of the guaranty and release the guaranty in accordance with the requirements and procedures prescribed in this subsection. All requests for reduction shall be by application to the County Engineer. A complete application shall include, at a minimum, a certified cost estimate from the developer's engineer for both the completed and the remaining required improvements. The County Engineer shall have the right to reduce the amount of any requested reduction based on his review of the application and required improvements. The County Engineer shall also have the right to refuse to approve any requested reduction so long as the developer fails to be in compliance with any of the terms and conditions of this article, the plat, or the plans and specifications for the required improvements. The County Engineer shall give written notification to the developer and the guarantee principal of his decision on the application within one (1) month of the application being deemed complete. Any approval under this section shall be conditioned upon the guarantee principal providing, within one (1) month of receipt of the County Engineer's written notification, written confirmation of the reduction in a form acceptable to the County Attorney.

1. **Frequency of reductions in amount of guaranty.** Reductions in the amount of the guaranty may be approved by the County Engineer in accordance with the following schedule.

   a. **Cash deposits and escrow agreements.** The deposit or account may be reduced as installations progress at stages of construction established by the County Engineer, but not more frequently than monthly.

   b. **Letters of credit and performance or surety bonds.** Quarterly during the process of construction and upon request by the developer, the County Engineer may reduce the dollar amount of the guaranty.

2. **Amount of reductions in guaranties.** The County Engineer shall not reduce the amount of any guaranty below twenty (20) percent of the original cost estimate amount. In addition to this limitation, no reduction in the dollar amount of the guaranty shall be made unless sufficient funds will remain to complete the remaining required improvements and the cost of required improvements installed equals or exceeds the amount of the request. To ensure that sufficient funds remain for completion of the remaining required improvements, the County Engineer shall release not more than ninety (90) percent of the dollar amount of required improvements certified as completed during the period for which a reduction is requested.

3. **Release of guaranty.** The guaranty shall only be released upon acknowledgement of completion of the required improvements pursuant to Sec. 8.17.G. Two (2) weeks prior to the release of the guaranty, the County Engineer shall notify the appropriate District Commissioner of intent to release.

E. **County use of funds; failure of developer to complete.** The County Engineer, as the authorized agent of the Board, shall have the right to any funds available under the guaranty to secure satisfactory completion of the required improvements in the event of default by the developer or failure of the developer to complete such improvements within the time required by Sec. 8.17.B. The County Engineer shall send the developer a courtesy written notice of the County's intent to expend any drawn funds or demand performance, as applicable. Such notice shall be sent at least thirty (30) calendar days prior to said expenditure or demand, and shall be mailed to the last known address of the developer or his authorized agent according to the Land Development Permit records on file with the County Engineer.

F. **Administration of construction.**

1. **Construction standards.** Construction standards shall be those prescribed in the current County Standards.

2. **Inspections, reports, and stop work orders.** The County Engineer shall be notified in advance of the date of commencement of construction pursuant to the Land Development Permit, and of such points during the progress of construction for which joint review by the County Engineer and developer's engineer are required.

a. Construction shall be performed under the surveillance of, and shall at all times be subject to, review by the County Engineer; however, this in no way shall relieve the developer of the responsibility for ensuring close field coordination and final compliance with the approved plans, specifications and the requirements of this ordinance.

b. The developer shall require progress reports of the construction of the required improvements from the developer's engineer. The developer's engineer may also be required to submit construction progress reports directly to and at points of progress prescribed by the County Engineer. The developer's engineer shall coordinate joint reviews of the construction with the County Engineer at points specified by the County Engineer.

c. The County Engineer shall have the right to enter upon the property for the purpose of reviewing the construction of required improvement during the progress of such construction. The County Engineer shall have the authority to stop the work upon failure of the developer or his engineer to coordinate the construction of the required improvements as required by this subsection.

3. Measurements and tests. During construction, the developer's engineer shall make or cause to be made such measurements, field tests, and laboratory tests necessary to certify that the work and materials conform with the approved development plans and the provisions of this article. The County Engineer may require, at his discretion, specific types and locations of tests and measurements which he deems necessary to demonstrate conformance with approved plans and specifications.

4. Engineer's certificate of completion. The required improvements shall not be considered complete until a certificate of completion, certifying to construction in conformance with the approved plans, and the final project records have been submitted to, reviewed, and approved by the County Engineer. The certificate shall be signed and sealed by the developer's engineer and shall be in a form established by the County Engineer, as prescribed in the Land Development Forms Manual. Said certificate shall make specific reference to, and be accompanied by copies of measurements, tests and reports made on the work and materials during the progress of construction, along with a Record Drawing copy of each of the construction plans on a high quality, time-stable, reproducible mylar, showing the original design in comparison to the actual finished work with all material deviations noted thereon.

G. Acknowledgment of completion and maintenance of required improvements.

1. Developer's Warranty on workmanship and material. The developer shall execute and submit a warranty guaranteeing the required improvements against defect in workmanship and material for a period of one (1) year after acknowledgment of completion pursuant to this Section. Said warranty shall be submitted to the County Engineer along with the completion certificate and project records. The warranty shall be in a form approved by the County Attorney and prescribed in the Land Development Forms Manual.

2. **Acknowledgment of completion by County Engineer; release of guaranty.** Upon submittal of the documents and records required by Secs. 8.17.F.4 and 8.17.G.1 and recorded copies of the approved Maintenance and Use Covenants, the County Engineer shall determine the completeness of the required improvements in accordance with the provisions of this article and the contract. When the County Engineer determines that the required documentation is acceptable and the required improvements have been installed as required by this article and the contract, he shall issue a written statement acknowledging completion of the required improvements and, when a guaranty has been posted, release the guaranty in accordance with the following.

   a. **When plat is recorded and no dedications were made to the County.** When the record plat does not contain dedications to the County, the County Engineer shall release the guaranty. Such release shall be by a written statement of release of guaranty. A copy of the acknowledgment and release shall be forwarded to the Board for filing.

   b. **When plat is recorded and dedications were made to the County.** When the record plat contains dedications to the County in which County maintenance of the improvements is desired, the County Engineer shall, when acknowledging completion of the required improvements, advise the Developer that the guaranty will be released upon the Board's acceptance of maintenance of the required improvements as required by Sec. 8.17.G.3. Upon approval of the resolution accepting maintenance of the required improvements, the County Engineer shall issue a written statement of release of guaranty.

   c. **When plat has not been recorded.** When the plat has not been approved by the Board and recorded in the Public Records, the County Engineer shall attach a copy of the statement acknowledging completion to the resolution requesting signature and recordation of the plat.

   d. **Effect of release.** Issuance of the statement releasing guaranty or, when no guaranty was required, issuance of the statement acknowledging completion shall relieve the developer of his obligations under the contract for construction of required improvements but shall not relieve the developer of his obligations under the warranty for required improvements required under Sec. 8.17.G.1.

3. **Acceptance of dedications and maintenance of improvements.** The acceptance of any dedication to the Board of public space, parks, rights-of-way, easements or the like on the plat shall be by resolution of the Board and shall not constitute an acceptance by the County of the responsibility to construct or maintain improvements within the dedicated area. Acceptance of the maintenance responsibility for dedications to the County shall be made by specific resolution of the Board.

   a. **Acceptance of dedications.** The resolution accepting dedications to the Board shall be adopted at the time of approving the recordation of the Final Plat.

b. Acceptance of dedications of real property. For those dedications to the Board of real property, including rights-of-way, parks, and other tracts, an executed deed transferring title to such lands, plus such documentation of title and absence of encumbrances as required pursuant to County policy for acceptance of deeds, shall be submitted to the County Engineer at the time of submittal of the applicable Final Plat for recordation. Said deed(s) shall be on a form approved by the County Attorney, and shall be recorded by the County subsequent to recordation of the applicable Final Plat.

c. Acceptance of maintenance by Board. At such time as the County Engineer has issued a statement acknowledging completion of the required improvements, the Board may accept the maintenance responsibility for the dedications made to the County.

4. County completion of required improvements in recorded subdivisions. The County may complete the required improvements, under the guaranty provided by the developer, when the corresponding plat has been recorded and the developer fails to complete the required improvements as required by this article. In such case, the County Engineer shall call upon the guaranty to secure satisfactory completion of the required improvements. Notice of said call shall be deemed upon posting via certified mail. Upon the completion of such action, the County Engineer shall report to the Board and the Board may accept by resolution the dedication and maintenance responsibility as indicated on the plat. In such cases, the remaining guaranties posted by the developer shall be retained for a period of one (1) year after completion in lieu of the agreement. Any defects occurring during this period shall be repaired using funds remaining in the guaranty.

5. Developer's failure to complete improvements in unrecorded subdivisions. Where a developer has elected to install the required improvements prior to recordation of the plat and fails to complete such improvements within the time limits prescribed in Sec. 8.17.B, all previous approvals applicable to the proposed subdivision shall be deemed void.

SEC. 8.18 SUPPLEMENTAL PROCEDURES.

A. Construction and landscaping in lake maintenance easements and water management tracts.

1. Purpose. It is the purpose of this subsection to allow for the construction or placement of structures and plants adjacent to, or over, water bodies within water management tracts, while taking measures to ensure that such structures or plants shall not interfere with the proper functioning of the stormwater management system nor be otherwise detrimental to the health, safety, welfare, or convenience of the public or of persons responsible for or affected by a water body within a water management tract.

2. Prohibition. The placement or construction of trees, shrubs, or structures within any water management tract established for purposes of wet detention/retention in an open

water body, or easement or berm adjacent thereto established for purposes of access for maintenance of the water body or water management tract or structures and facilities therein is hereby prohibited, except in strict conformance with the provisions of this subsection.

3. **Application requirements for bulkheads, docks, or piers.** Persons desiring to construct bulkheads, docks, or piers over or along a water body contained within a water management tract shall apply to the Director of ERM in accordance with the applicable provisions of Sec. 7.6.

4. **Application requirements for structures or plantings in lake maintenance easements.** Persons desiring to place trees or shrubs or construct or place structures within a lake maintenance easement shall apply to the County Engineer. The County Engineer shall ensure that adequate conditions are imposed, and appropriate documents are executed and, if appropriate, recorded to ensure compliance with the provisions of this subsection and approvals granted pursuant to this article.

5. **Structures or plantings.** The provisions herein shall be applied to approvals by the County Engineer for the installation of structures or plantings in, on, or over lake maintenance easements. The following criteria shall apply to the installation of such structures and plantings.

   a. No structures except those which may be easily removed shall be permitted in lake maintenance easements. Examples of impermissible structures are houses, garages, screened enclosures, concrete block walls, concrete decks, affixed permanent sheds, and pools. Examples of permissible structures are thatch sheds, wood decks, and non-concrete fences, contingent on said structures not being structurally affixed to the ground.

   b. Trees or shrubs shall not be planted, nor structures placed, in the lake maintenance easement where the planting or placement of such would obstruct access by equipment to outfalls or water control structures.

   c. A removal declaration in a form acceptable to the County Attorney shall be recorded, at the expense of the property owner.

   d. The property owners' association's consent to the specific structure(s), tree(s), or shrub(s) shall be required where a property owners' association has responsibility for lake maintenance. If any other entity has a beneficiary interest in the easement or a responsibility for lake maintenance, that entity's consent shall be required.

   e. Trees or shrubs planted pursuant to this subsection shall be limited to those species permitted pursuant to Sec. 7.3.F., and shall not include any portion of the minimum site landscaping required pursuant to Sec. 7.3.E.

6. **Repair, replacement, or modification.** Any repair, replacement, or modification, except ordinary maintenance, to any planting or structure approved pursuant to this subsection, shall be done only after being approved as new planting or construction pursuant to this subsection.

B. **Dredge, fill and construction in waters of the State.**

1. **Applicability.** Subdivision of lands containing or abutting existing or proposed waters of the State, including canals, lakes, streams, and wetlands, shall comply with and conform to the requirements of this subsection.

2. **Easements or rights-of-way.** Where land within a proposed subdivision abuts existing or proposed waters of the State, there shall be provided a floodway or floodplain easement or a drainage right-of-way conforming substantially with the lines of such watercourse or water body and of such further width or construction or both as will be adequate for the purpose. Additional easement or right-of-way width may be required where necessary for maintenance, safety and convenience. Each required easement and right-of-way shall be deeded or dedicated to an appropriate public agency. Maintenance responsibility and use limitations applicable to said easements and rights-of-way, or any facilities placed therein, shall be in accordance with all applicable permit conditions and shall be stated or referenced by note on the appropriate plat(s).

3. **Permits.** Where proposed dredging or filling affects waters of the State or sovereign land, said activities shall be approved by the governing agency having jurisdiction in such matters. Prior to the construction of any seawall, bulkhead, dock or pier, a construction permit shall be obtained from the Palm Beach County Building Department in addition to all required permits or expressed exemption from permitting for construction in waters of the State.

C. **Alternate design, construction standards, and types of materials.**

1. **Applicability.** Alternate designs, construction standards, and types of materials which, in the opinion of the County Engineer, are equal or superior to those specified may be approved in accordance with this subsection.

2. **Contents of application.** The application shall be submitted in a form established by the County Engineer, prescribed in the Land Development Forms Manual, and made available to the public. Said application shall be accompanied by written data, calculations and analyses, and drawings which are necessary to show, by accepted engineering principles, that the proposed alternates are equal or superior to those specified, or are necessary due to environmental considerations. Within forty five (45) days of receipt of such application, the County Engineer shall either approve or deny the application and shall advise the Developer's Engineer and the Developer in writing of the decision.

3. **Environmental considerations.** In the interest of the preservation of existing trees and other natural features at the developer's request, or as required by other regulations, the County Engineer may vary the design and construction requirements upon presentation by the developer of substantial evidence that environmental conditions will be enhanced, that proper performance of the approved stormwater management system will not be impaired, and that safety, stability, and design life of structural improvements will not be compromised.

SEC. 8.19 REQUIREMENTS FOR CERTIFIED SURVEY.

A. **General.** The County Engineer shall adopt and amend, from time to time, the criteria for the certified survey. At a minimum, the certified survey shall meet the requirements for surveys established by the Minimum Technical Standards set forth by the Florida Board of Professional Land Surveyors in Chapter 21HH-6.003, F.A.C., pursuant to Sec. 472.027, Fla. Stat.

B. **Alternatives.** The County Engineer shall reserve the right to require a certified sketch and legal description in lieu of a certified survey. The certified sketch and legal description shall meet the requirements for certified sketches and descriptions set forth by Chapter 21HH-6.006, F.A.C., pursuant to Sec. 472.027, Fla. Stat. and Palm Beach County Description Checklist pursuant to policies and procedures established by the County Engineer and made available to the public.

C. **Recordation.** The certified survey or sketch and legal description shall not require approval of the Board prior to recordation.

SEC. 8.20 REQUIREMENTS FOR THE PRELIMINARY AND FINAL PLAT.

A. **Preliminary plat.** The preliminary plat shall meet the requirements of the Final Plat, except that it shall be submitted without the required signatures and seals. It may also be submitted without maintenance and use covenants, condominium documents, deeds, or other legal documents not related to the survey or engineering design of the project.

B. **Final plat.** The plat shall be prepared in accordance with the provisions of Chapter 177, Fla. Stat., as amended, and shall conform to the requirements of this section.

1. **Material.** The plat shall be drawn or printed on twenty-four (24) inch by thirty-six (36) inch linen, chronoflex, mylar or other approved material.

2. **Preparation.** The plat shall be prepared by a land surveyor currently registered in the State of Florida and is to be clearly and legibly drawn with black permanent drawing ink or veritype process to a scale of not smaller than one inch equals one hundred (100) feet, or as otherwise determined by the County Engineer.

3. **Name of subdivision.** The plat shall have a name acceptable to the County. When the plat is a new subdivision, the name of the subdivision shall not duplicate or be phonetically similar to the name of any existing subdivision. When the plat is an addition

to or replat of a recorded subdivision, it shall carry the same name as the existing subdivision followed by a suitable phase designation or similar modifier, when applicable.

4. **Title.** The plat shall have a title printed on each sheet in bold legible letters containing:

   a. The name of the subdivision, printed above and in letters larger than the balance of the title;

   b. The name of the County and State;

   c. The section, township and range as applicable or if in a land grant, so stated;

   d. When the plat is a replat, amendment or addition to an existing plat of record, the words "section", "unit", "replat", "amendment", etc.; and

   e. When the plat encompasses lands in a planned unit development, the abbreviation "PUD". Likewise, all other planned developments shall contain the appropriate abbreviation for such designation within the title.

5. **Description.** There shall be lettered or printed upon the plat a full and detailed description of the land embraced in the plat. The description shall show the section, township and range in which the lands are situated or if a land grant, so stated, and must be so complete that from it without reference to the map the starting point can be determined and the boundaries run.

6. **Index.** If more than one sheet is required for the map, the plat shall contain an index map on the first page, showing the entire subdivision and indexing the area shown on each succeeding map sheet. Each map sheet shall contain an index delineating that portion of the subdivision shown on that sheet in relation to the entire subdivision. When more than one sheet must be used to accurately portray the lands subdivided, each sheet must show the particular number of that sheet and the total number of sheets included, as well as clearly labeled match lines between map segments.

7. **Survey data.** The plat shall show the length of all arcs together with central angles, radii, and points of curvature. Sufficient survey data shall be shown to positively describe the boundary of each lot, block, right-of-way, street, easement, and all other areas shown on the plat and all areas shall be within the boundary of the plat as shown in the description. The plat shall also include the following items in the manner described below.

   a. The scale, both stated and graphically illustrated, shall be shown on each sheet.

   b. A prominent north arrow shall be drawn on every sheet included showing any portion of the lands subdivided. The bearing or azimuth reference shall be clearly stated on the face of the plat in the notes or legend.

c. The point of beginning shall be boldly shown together with the letters "P.O.B." in bold letters.

d. All intersecting street lines shall be joined to form required safe sight corners pursuant to the County standards, and all dimensions shall be shown.

e. All adjoining property shall be identified by a subdivision name, plat book and page or, if unplatted, the land shall be so designated.

f. Permanent reference monuments shall be shown in the manner prescribed by Chapter 177, Fla. Stat., as amended. All information pertaining to the location of "P.R.M.s" shall be indicated in note form on the plat. Permanent Control Points and Permanent Reference Monuments shall be designed and set as prescribed by Chapter 177, Fla. Stat., as amended, and Sec. 8.29.F.

g. There shall be reserved on each sheet of the plat a three (3) inch by five (5) inch space in the upper righthand corner to be used by the Clerk of the Circuit Court for recording information and each sheet shall reserve three (3) inches on the left margin and a half (1/2) inch margin on all remaining sides.

h. The map shall mathematically close within 0.01 feet and shall be accurately tied to all County township, range and section lines occurring within the subdivision by distance and bearing.

i. The initial point in the description shall be accurately tied to the nearest quarter section corner or section corner or government corner. Each government corner being used shall be identified. If the subdivision being platted is a re-subdivision of a previously recorded subdivision, then a tie to a Permanent Reference Monument from the parent plat is sufficient. If the subdivision is a re-subdivision of a part of a previously recorded subdivision, sufficient ties to controlling lines appearing on the parent plat must be provided to permit an overlay. The position and orientation of the plat shall conform to the Florida State Plan Coordinate System in the manner established by the County Engineer and prescribed in the Land Development Forms Manual.

j. The cover sheet or first page of the plat shall show a vicinity sketch, showing the subdivision's location in reference to other areas of the County.

k. A complete legend of abbreviations shall be shown.

l. All lettering on the plat shall be at a minimum 0.10 of an inch in height.

m. The plat boundary and all parcels shown on subdivision plats intended to be conveyed in fee title shall be delineated by solid lines.

n. Lines intersecting curves shall be noted as radial or non-radial as the case may be.

o. A note addressing any abandoned underlying lands or easements, including record information, shall be shown.

p. Tabulation of Survey Data:

(1) The use of tangent tables is not permitted. However, at the discretion of the County Engineer on a case by case basis, the use of a tangent table to reflect corner clip (safe sight) chords may be permitted if deemed necessary to meet requirements of neatness and clarity of the plat. Scale factors shall not be considered. Such tables, when permitted, must appear on the map sheet to which they refer and tangents shall be numbered consecutively through the entire presentation.

The possible exception noted above shall be limited to use on plats and shall not be carried into any other survey documents submitted for approval to the County Engineer.

(2) Curve data may be tabulated subject to the following conditions or exceptions.

(a) External boundary or centerline curve data may not be tabulated.

(b) Where data is tabulated, a minimum of the arc length and the curve designation number or letter will be shown on site.

(c) Curve tables reflecting the tabulated data will appear on the map sheet on which the curves appear.

8. Lot and block identification. Each lot and block shall be numbered or lettered. All lots shall be numbered or lettered by progressive numbers or letters individually throughout the subdivision or progressively numbered or lettered in each block. Blocks in each incremental plat shall be numbered or lettered consecutively throughout a subdivision.

9. Street names. The plat shall show the name of each street as shown on the Final Subdivision Plan and conforming with Sec. 8.22.A.20.

10. Not included parcels. Not included or excepted parcels must be marked "not a part of this plat." Where a not included parcel is completely surrounded by areas included within the plat, sufficient easements or rights of way to provide necessary access, utilities, and drainage to the not included parcel shall be provided. No parcel of land shall be reserved by the owner unless the same is sufficient in size and area to be of some particular use or service. The intended use of all reserved areas shall be shown on the plat in note form on the cover sheet.

11. **Streets, and easements.** All street, right-of-way, and easement widths and dimensions shall be shown on the plat. Easements are to be tied at both ends at intersecting boundary, lot, or right-of-way lines. The plat shall show the name, location and width of all existing or recorded streets intersecting or contiguous to the boundary of the plat, accurately tied to the boundary of the plat by bearings and distances.

12. **Maintenance and use documents.** Maintenance and use covenants, as required by Sec. 7.15, shall be submitted with the Final Plat and approved by the County Attorney prior to recordation of the Final Plat. All areas of the plat that are not to be sold as individual lots and all easement shall be dedicated or reserved in accordance with the terms of the maintenance and use covenants, and their purposes shall be clearly stated on the plat.

13. **Streets.** All streets and their related facilities which are designed to serve more than one lot or dwelling unit shall be dedicated to the Board for public use, unless otherwise required or permitted by this paragraph or elsewhere in this article. Any street which is to be reserved as a private street shall be identified as a tract for private street purposes. Such street tracts shall be reserved in accordance with Sec. 8.20.B.15.a. Private streets may only be permitted when such streets are subject to a recorded declaration of covenants subjecting the streets to the jurisdiction and control of all lot owners deriving access from such streets, their successors and assigns. When parking areas are required to be constructed by Sec. 8.22, they shall be reserved to and shall be the perpetual maintenance responsibility of a property owners' association, which association shall have jurisdiction over the parking area and the clustered lots. Such parking areas shall be clearly identified and reserved as tracts for parking and access purposes.

14. **Restriction on obstruction of easements.** The plat shall contain a statement that no buildings or any kind of construction or trees or shrubs shall be placed on any easement which may interfere with the dedicated purpose of the easement or which do not have the prior written consent of all easement beneficiaries. Prior to issuance of any permit to construct or plant in such easement, a removal agreement, in a form acceptable to the County Attorney, shall be recorded in the Public Records of the County. Said removal agreement shall run with title to the land and covenant for the current and future owners that the building, structure or plantings, as described therein, shall be removed at the owner's expense when requested by the easement beneficiary or the County.

15. **Certification and approvals.** The plat shall contain on the face or first page the following certifications and approvals, acknowledged as required by law, all being in the form set forth below.

a. **Dedication and reservation.** All areas dedicated for public use shall be dedicated by the owner of the land at the time the plat is recorded. Such public areas include, but are not limited to: civic sites, parks, rights-of-way for streets or alleys, however the same may be designated; easements for utilities; rights-of-way and easements for drainage purposes; and any other area, however designated. All areas reserved for use by the residents of the subdivision shall be reserved by the owner of the land at the time the plat is recorded. All dedications and reservations shall be perpetual and shall contain:

(1) The name of the recipient or beneficiary of the dedication or reservation (including successors and assigns);

(2) The purpose of the dedicated or reserved area; and

(3) The name of the entity responsible for the perpetual maintenance of the dedicated or reserved area (including successors and assigns). In the event Palm Beach County is not the recipient or beneficiary of the dedication or reservation, the statement of maintenance responsibility shall include the phrase "without recourse to Palm Beach County."

If so required, certain dedications or reservations shall grant Palm Beach County the right but not the obligation to maintain. The dedications and reservations shall be executed by all owners having a record interest in the property being platted. The acceptance on the plat of the dedications or reservations shall be required of any entity to whom a dedication or reservation is made, except the Board. Dedications to the Board shall be accepted according to Sec. 8.17.G.3. All dedications, reservations, and acceptances shall be executed in the same manner in which deeds are required to be executed according to Florida Statutes.

Although the term "dedication" is meant to imply a public use while the term "reservation" is meant to imply a private use, the terms may inadvertently be used interchangeably. Inadvertent misuse shall not invalidate any County requirement or plat dedication or reservation.

b. **Mortgagee's consent and approval.** All mortgages along with the mortgagee's consent and approval of the dedication shall be required on all plats where mortgages encumber the land to be platted. The signature(s) of the mortgagee or mortgagees, as the case may be, must be witnessed and the execution must be acknowledged in the same manner as mortgages are required to be witnessed and acknowledged. The form for the mortgagee's consent shall be as prescribed in the Land Development Forms Manual.

c. **Certification of surveyor.** The Final Plat shall contain the signature, registration number and official seal of the surveyor, certifying that the plat is a true and correct representation of the land surveyed under his responsible direction and supervision and that the survey data compiled and shown on the plat complies with all of the requirements of Chapter 177, Fla. Stat., as amended, and this article. The certification shall also state that permanent reference monuments ("P.R.M.s") have been set in compliance with Chapter 177, Fla. Stat., as amended, and this article. When the permanent control points ("P.C.P.s") are to be installed after recordation, the certification shall also state that the "P.C.P.s" will be set under the direction and supervision of the surveyor under the guarantees posted for required improvements within the plat . When required improvements have been completed prior to the recording of a plat, the certification shall state that "P.C.P.s" have been set in compliance with the laws of the State of Florida and ordinances of Palm Beach County. The form for the surveyor's certificate shall be as prescribed in the Land Development Forms Manual.

d. **Board approval.** The plat shall contain the approval and signature block for the Board of County Commissioners and the acknowledgement and signature block of the Clerk of the Circuit Court in the form prescribed in the Land Development Forms Manual. Upon adoption of a resolution approving the plat, the Chairman of the Board shall execute the plat and the plat shall be presented to the Clerk of the Circuit Court by the County Engineer for recording.

e. **County Engineer.** The plat shall contain the approval and signature block of the County Engineer in the form prescribed in the Land Development Forms Manual.

f. **Certification of title.** The title sheet of the plat shall contain a title certification. The title certification must be an opinion of an attorney-at-law licensed in Florida, or the certification of an abstractor or a title insurance company licensed in Florida, and shall state that:

(1) The lands as described and shown on the plat are in the name, and apparent record title is held by the person, persons or organizations executing the dedication;

(2) All taxes have been paid on said lands as required by Chapter 197.192, Fla. Stat., as amended;

(3) All mortgages on the land are shown and indicates by their official record book and page number; and

(4) There are no encumbrances of record on said lands that would prohibit the creation of the proposed subdivision.

The form for the title certification shall be as prescribed in the Land Development Forms Manual.

g. Preparing Surveyor. The name and address of the natural person who prepared the plat shall be shown on the plat as required by Sec. 695.24, Fla. Stat., as amended, in the form prescribed in the Land Development Forms Manual.

C. Special requirements for mobile home, recreational vehicle, and manufactured housing subdivisions. Areas to be subdivided for the purpose of a mobile home, recreational vehicle or manufactured housing development shall also comply with this subsection. Except as to the lots indicated for other purposes, the dedications and reservations on the plat of a mobile home subdivision shall include the following additional provisions or wording equal thereto: "Said owner(s) hereby reserve(s) the lots shown on the plat exclusively for [mobile home, recreational vehicle, or manufactured housing], parking and uses incidental thereto, and, except as to these lots, mobile home or trailer parking is prohibited elsewhere." Areas indicated as parks or playgrounds are to be reserved for the use of the owners of the lots shown on the plat.

SEC. 8.21 REQUIRED IMPROVEMENTS.

A. Minimum required improvements for all subdivisions. Except when waived pursuant to Sec. 8.9.C, the improvements set out herein shall be the minimum required improvements for all subdivisions in order to provide the physical improvements necessary to implement certain performance standards, objectives and policies of the Capital Improvements Element and other elements of the Comprehensive Plan. These required improvements shall be installed prior to recordation of the corresponding plat or certified survey unless the developer furnishes a guaranty assuring their installation in accordance with the provisions of this article. Except as provided in this section, the cost of all required improvements shall be guaranteed.

1. Access and circulation systems. All streets and required sidewalks, and, when required under Sec. 8.22, parking areas shall be constructed by the developer in accordance with the design and construction requirements of Sec. 8.22. The guaranty for these requirements shall be as follows.

a. The cost of installing all street improvements shall be guaranteed.

b. The cost of installing parking areas need not be guaranteed since the plat establishes legal access and such areas are required to be installed prior to issuance of the Certificate of Occupancy.

c. The cost of installing all sidewalks and paths pursuant to the approved pedestrian circulation system shall be guaranteed, except that the required guaranty may be waived by the County Engineer for portions of local streets abutting residential lots when the paving, grading and drainage plans contain a note, acceptable to the County Engineer, stating that such sidewalks or paths will be constructed concurrent with construction of the dwelling unit for such abutting lot. Installation of sidewalks and paths in streets abutting open space, common areas,

recreation areas, water management tracts, and other areas which will not have a dwelling unit constructed thereon shall be guaranteed.

2. **Land preparation.** The developer shall grade and fill the land pursuant to Sec. 8.23.

3. **Stormwater management system.** The developer shall install the secondary and tertiary stormwater systems for the development in accordance with Sec. 8.24. On lots intended for building construction, the final grading of each lot, consistent with Sec. 8.24 or the applicable approved grading plan, shall be done in conjunction with and pursuant to the building permit for said construction.

4. **Wastewater system.** The developer shall install the required wastewater collection and/or disposal system for the development in accordance with Sec. 8.25.

5. **Potable water system.** The developer shall install the required potable water distribution system for the development in accordance with Sec. 8.26.

6. **Utilities.** The developer shall satisfy the requirements for underground installation of utility services and for utility site location, when applicable, of Sec. 8.27.

7. **Fire rescue services.** The developer shall comply with the requirements of Sec. 8.28. The cost of installing the required hydrants may be included in the cost for the central water system.

8. **Subdivision design and survey requirements.** The developer shall install all required permanent control points in accordance with Sec. 8.29.F. When the permanent control points are to be installed after plat recordation, the cost of installing permanent control points shall be guaranteed.

B. **General design requirements.** The design of the required improvements shall be in accordance with acceptable engineering principles. The design and construction of required improvements shall, at a minimum, be in accordance with current County standards, including those contained in this article. Should the developer elect to provide improvements of a type or design proposed to equal or exceed the minimum requirements, standards for design and construction of such improvements shall be evaluated for adequacy on an individual basis. All such alternatives shall be submitted for approval by the County Engineer in accordance with Sec. 8.18.C.

C. **Parks and recreation.** The developer shall satisfy all applicable requirements for provision of parks, recreation areas, and recreational facilities to serve residents of a proposed subdivision in accordance with Sec. 7.12 . The means of complying with said requirements shall be fully addressed on the Final Subdivision Plan.

SEC. 8.22 ACCESS AND CIRCULATION SYSTEMS.

A. Vehicular circulation systems.

1. **Required improvement to be constructed by developer.** All streets, required alleys, and related facilities required to serve the proposed development shall be constructed by the developer. Construction shall consist of, but not be limited to, grading, base preparation, surface course, and drainage. All streets, whether intended for dedication to the Board of County Commissioners or reservation for private use and maintenance, shall be constructed to the minimum standards established by this article and the County standards. Additionally, the developer shall construct any parking tracts which provide access to any clustered lots that do not have direct, primary access from a local street or residential access street. Construction of such parking tracts shall be completed prior to issuance of any Certificate of Occupancy for any dwelling unit located on a clustered lot served by such parking tract. Construction of the parking tract may be done in conjunction with building construction on the lot the tract is to serve provided, however, that such construction shall be noted on the approved paving, grading and drainage plans in a form acceptable to the County Engineer. When the parking tract is to be completed in conjunction with building construction, the developer shall execute a certificate of compliance on a form approved by the Building Director prior to issuance of the certificate of occupancy for any dwelling unit or building served by such parking tract. Said certificate of compliance shall state that the parking tract was completed in accordance with the requirements of Sec. 7.2.

2. **Minimum legal access requirement.** There is hereby established a hierarchy of legal access as shown on Chart 8.22-1. Except as provided below, each lot shall abut a street of suitable classification to provide said lot with legal access consistent with the standards set forth in Chart 8.22-2.

   a. When legal access to a lot is permitted by this Code to be by a common parking area which serves more than one (1) lot, it shall be dimensioned and depicted on the construction plans and reserved on the plat as a "parking tract". Said tract shall be reserved for parking and access purposes to the property owners association having jurisdiction over the parking area and the abutting lots.

   b. A common driveway may, with prior approval by the County Engineer, be utilized for legal access to a group of not more than four (4) abutting lots situated adjacent to a curve on a residential access street where said lots would otherwise have no reasonable means of obtaining direct access to or required frontage on the adjacent residential access street. Said driveway shall be delineated and reserved on the applicable plat for purposes of perpetual access to the lots served.

   c. A common parking lot may be utilized for legal access to individual commercial lots created by subdivision of a shopping center where all lots within the boundary of such subdivision are served by said access and are subject to recorded shared access, maintenance, and use covenants approved by the County

Attorney pursuant to Sec. 7.15. Where such access is utilized, direct lot access on any street adjacent to the boundary of the subdivision shall be prohibited except at common access points approved for the subdivision as a whole.

3. General design considerations. The proposed street layout shall be integrated with the County's traffic circulation network, and shall be coordinated with the street system of the surrounding area. Streets shall be classified and designed in accordance with the Traffic Circulation Element of the Comprehensive Plan, Chart 8.22-2, and the County standards. Consideration shall be given to:

   a. The need for continuity of existing and planned streets;

   b. Barriers imposed by topographical conditions and their effect on public convenience or safety;

   c. The proposed use of the land to be served by such streets;

   d. The need for continuation of existing local streets in adjoining areas not subdivided;

   e. The proper projection of non-plan collector and plan collector streets;

   f. The feasibility of extending the proposed street system to the boundary of the proposed subdivision to promote reasonable development of adjacent lands and to provide continuity of street systems; and

   g. Discouraging through traffic in the design of local and residential access streets.

4. Double frontage lots. Where a lot has two frontage lines, legal access to the lot shall be restricted as follows.

   a. Residential lots. Where a lot abuts both a street of non-plan collector or higher classification and a local street, access to said lot shall be by the local street. The lot line(s) abutting any street of higher classification than a local street shall be buffered in accordance with the provisions of Sec. 8.29.B.

   b. Non-residential lots. Where a lot abuts streets of local or higher classification, access to the lot shall be by the street of lower classification, unless otherwise permitted by this Code; provided, however, that access shall not be permitted on a local residential or residential access street as prescribed on Chart 8.22-2.

5. Construction in muck or clay areas. Construction in muck or clay areas shall be done in accordance with the County Standards.

6. Street intersections and street jogs. The centerline intersections of local or residential access streets with non-plan or plan collector streets shall be spaced a minimum distance of two hundred (200) feet, as measured along the centerline of the collector street.

Intersections which warrant traffic signalization shall be spaced a minimum distance of thirteen hundred (1300) feet, centerline to centerline. Connection of local streets to arterial streets may be permitted by the County Engineer only where other access is unavailable. Local street jogs with centerline offsets of less than one hundred twenty-five (125) feet are prohibited.

7. Through and local traffic. Through traffic shall be directed along non-plan collector streets within the subdivision. Local streets shall be laid out to accommodate local or neighborhood traffic and to discourage their use by through traffic.

8. Railroads in or abutting subdivisions. When a subdivision borders on or contains a railroad right of way, a street approximately parallel to and on each side of such right of way may be required at a distance suitable for an appropriate use of the intervening land.

9. Alleys. Alleys may be allowed in subdivisions when they are necessary, in the opinion of the County Engineer, for the safe and convenient movement of traffic and pedestrians. Alley intersections and sharp changes in alignment shall be avoided and alleys shall be constructed in accordance with the following.

   a. Residential areas. Alleys shall be paved ten (10) feet wide in a minimum twelve (12) foot right-of-way, with appropriate radii for the intended use.

   b. Commercial and Industrial areas. Alleys shall be paved eighteen (18) feet wide in a minimum twenty (20) foot right-of-way, with appropriate radii for the intended use.

10. Bridges and culverts. Bridges or culverts shall be provided as necessary to facilitate the proposed vehicle and pedestrian system. The bridge or culvert requirement is subject to approval by the agency having jurisdiction over the facility being crossed. Bridges shall be designed in general accord with the current Department of Transportation practices and shall include planning for utility installation. They shall be reinforced concrete, unless other low maintenance materials are approved by the County Engineer. Bridges shall have a clear roadway width between curbs two (2) feet in excess of the pavement width in each direction, and shall have sidewalks four (4) feet wide on each side. All bridge structures shall be designed for H-20-S16-44 loading, incorporating adequate corrosion protection for all metal work and erosion protection for associated shorelines and embankments.

11. Street markers. Street markers shall be provided at each intersection in the type, size and location required by the current County Standards. Street name signs shall carry the street name shown on the plat of record and shall be in compliance with the current County standards.

12. Traffic control devices. The developer shall install traffic control devices and, where required, traffic lights on roads within and interfacing with the subdivision. A traffic

impact analysis meeting the approval of the County Engineer shall determine the traffic light requirements.

a. **Pavement or lane delineators.** Pavement or lane delineators meeting the requirements of Palm Beach County shall be installed on all arterial streets. Upon approval by the County Engineer of sufficient lighting, pavement or lane delineators shall not be required.

b. **Design.** The design of traffic control devices shall be in accordance with State standards, specifically, the Manual for Uniform Traffic Control Devices.

13. **Pavement widths.** Pavement widths for streets shall be in accordance with Chart 8.22-2.

14. **Dead-end streets.** Dead-end streets shall be designed and constructed with an appropriate terminal turnaround in accordance with the County Standards. Dead-end streets shall not exceed one thousand three hundred twenty (1320) feet in length except where natural geographic barriers exist necessitating a greater length.

15. **Materials and construction.** Pavement construction shall consist of, at a minimum, a subgrade, base and wearing surface. All materials and construction shall be in accordance with the current County standards.

16. **Shoulders.** All unpaved shoulders shall be constructed and grassed in accordance with the County standards. Grassing, with seed and mulch or with solid sod, as required, shall be completed prior to acknowledgement of completion of the required improvements by the County Engineer. No time extensions to any contract for the construction of required improvement will be granted on the basis of incomplete shoulder treatment.

17. **Street grades.** The longitudinal grade of street pavement shall be parallel to the design invert slope of the adjacent roadside drainage swale or gutter. Minimum longitudinal and transverse grades shall be in accordance with County standards. Street grades shall be shown on the construction plans by indicating the direction and percent of slope. The horizontal distance along the centerline between, and pavement elevation at all points of vertical intersection shall also be shown.

18. **Non-conforming streets.** Streets which do not meet the design and constructions standards of this article and the County Standards shall not be permitted except where satisfactory assurance for dedication of the remaining part of the street or reconstruction of the street in accordance with current standards is provided. Whenever a tract to be subdivided abuts an existing partial street, the other part of the street may be required to be dedicated and constructed within such tract. A proposed subdivision that includes an existing street which does not conform to the minimum street width requirements of these regulations shall provide for the dedication of additional land for such street along either one or both sides of said street so that the minimum cross-section dimension requirements of these regulations can be met. The County shall not accept non-conforming streets for ownership or maintenance through the procedures established by this article.

19. **Limited access easements.** Limited access easements shall be required along all non-plan collector streets and all major streets in order to control access to such streets from abutting property. Easements for controlling access to local and residential access streets may be required by the County Engineer in order to ensure continued control of access to such streets from abutting property. All limited access easements shall be conveyed or dedicated to the County.

20. **Street names.** Proposed streets which are in alignment with existing named streets should bear the name of the existing street. All street names shall have a suffix and in no case, except as indicated in the preceding sentence, should the name of the proposed street duplicate or be phonetically similar to existing street names. All proposed street names shall be submitted to the Executive Director of the Planning, Zoning and Building Department for approval prior to submittal of the Final Subdivision Plan application.

21. **Alignment, tangent, deflection, radii.** Streets shall be laid out to intersect as nearly as possible at right angles. Multiple intersections involving the junction of more than two (2) streets shall be prohibited. The point of curvature of any local street or residential access street shall not be closer than one hundred (100) feet to any intersection, measured along the centerline from the extension of the intersecting street lines. Reverse curves shall be prohibited. Reversals in alignment shall be connected by a straight tangent segment at least fifty (50) feet in length. All intersections shall be designed to provide at least the minimum stopping and turning sight distances, in accordance with criteria prescribed in the most recent edition of the FDOT Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways. When the centerline of a local street deflects by more than ten (10) degrees, it shall be curved with a radius adequate to assure safe sight distance and driver comfort. Street pavement return radii shall be a minimum of thirty (30) feet.

22. **Street lighting.** If street lighting is installed it shall be maintained by a property owners' association and said association should not be created exclusively for the purpose of maintaining street lighting. Unless street lighting installation conforms to the standards of the requisite utility company, street lights shall be placed outside of rights of way, road tracts, or any other areas designated for road purposes. Streets lighting shall be wired for underground service except where aerial service is permitted pursuant to Sec. 8.7.C or Sec. 8.27.C.

23. **Median strips.** Median strips which are part of a public street may not be utilized for any purpose other than by the County or public utility. However a developer or property owner may install landscaping in a median strip or within shoulders in accordance with Sec. 7.3.I and permitting requirements as established by the County Engineer pursuant to Palm Beach County Ord. 76-2, as amended.

24. **Subdivision entranceways.** Subdivision entranceways consisting of walls, fences, gates, rock piles or other entrance features are not permitted within the median strip or other areas in a public street. Decorative entranceways must be constructed upon plots of land adjacent to a public street in compliance with applicable County codes and placed so as not to constitute a traffic hazard.

25. Guardhouses. A guardhouse, located so as not to create a traffic hazard, may be constructed in the median of an entrance to a subdivision having only private streets. The minimum setback to a guardhouse shall be one hundred fifty (150) feet, measured from the extension of the intersecting street lines, unless waived by the County Engineer. Two (2) lanes shall be required on each side of the median in the area of the guardhouse.

CHART 8.22-1

CHART OF ACCESS HIERARCHY

MAJOR STREETS: Streets which constitute the traffic circulation network as contemplated under the Comprehensive Plan. Listed from highest to lowest category.

EXPRESSWAY

ARTERIAL

PLAN COLLECTOR

MINOR STREETS: Streets which constitute the internal circulation network of a development and which are not classified as a MAJOR STREET. Listed from highest to lowest category.

NON-PLAN COLLECTOR

MARGINAL ACCESS

LOCAL

RESIDENTIAL ACCESS (private streets only):

40 FOOT

32 FOOT

ALLEY (secondary access only)

CHART 8.22-2
CHART OF MINOR STREETS

CLASSIFICATION	MINIMUM WIDTH (FT.) STREET[a]	PAVEMENT[b]	MAXIMUM ALLOWABLE ADT[c]	ALLOWED AS LEGAL ACCESS FOR: COMMERCIAL	RESIDENTIAL
NON-PLAN COLLECTOR	80	24	13,100	x	
MARGINAL ACCESS	50	24	N/A	x	x
LOCAL RESIDENTIAL[d]					
CURB & GUTTERS	50	20	1,500		x
SWALES	60	20	1,500		x
LOCAL COMMERCIAL	80	24	1,500	x	x
RESIDENTIAL ACCESS[e]					
ONE SIDEWALK	40	20	800		x
NO SIDEWALK	32	20	150		x

[a]Street width refers to standard right-of-way or private street tract width.

[b]Pavement width represents two (2) travel lanes of equal width and does not include the additional width of paved shoulder where required.

[c]Dead end streets of all classifications shall not exceed 1,320 feet in length unless otherwise approved by the County Engineer.

[d]Streets within a rural subdivision shall be at least 60 feet wide when they are to be constructed without a wearing surface.

[e]Use is restricted to private streets providing access to clustered lots.

B. Pedestrian circulation system.

1. Requirement for sidewalks. Except as provided in this section, sidewalks shall be constructed on both sides of all streets. For marginal access streets and streets with a width of less than fifty (50) feet and greater than thirty-two (32) feet, a sidewalk on one side is required. No sidewalk is required in streets with a width of thirty-two (32) feet or less. Required sidewalks shall be constructed by the Developer except as provided in Sec. 8.21.A.1.

2. Master pedestrian circulation plan; waiver of requirement. The Development Review Committee may approve a Master Pedestrian Circulation Plan and, upon such approval, may waive, in whole or in part, the requirement for sidewalks within the street of a subdivision, or portion thereof, where it finds that the alternative pedestrian circulation system provides accessibility, convenience, continuity and safety equivalent to or greater than that which would be provided by the required sidewalks. The Master Pedestrian Circulation Plan shall be submitted by the developer for approval concurrently with, and shall be considered part of the approved Final Subdivision Plan.

   a. Requirements for Master Pedestrian Circulation Plan. An application, the required fee, and the required number of copies of a Master Pedestrian Circulation Plan shall be submitted in accordance with Sec. 5.6. for placement on the agenda of the Development Review Committee. The Master Pedestrian Circulation Plan shall be a full-sized reproducible copy of the approved Final Subdivision Plan, and shall be modified, when necessary, to show:

      (1) The location of all lots and the number and type of dwelling units on each lot;

      (2) The classification and width of each street;

      (3) The location, width, and type of each pedestrian path, including those sidewalks and bicycle paths to be constructed within the streets; and

      (4) Locations of all connections to pedestrian systems outside the development.

   b. Distribution of approved plan. Upon approval of a Master Pedestrian Circulation Plan, a copy of the approved plan shall be forwarded to the County Engineer, Zoning Director, Building Director, and Metropolitan Planning Organization.

3. Maintenance responsibility of sidewalks and paths. The control, jurisdiction and maintenance obligation of paths not located wholly within a street and of sidewalks within private streets shall be placed with a property owners association or an improvement district. Where such control and maintenance obligation is to be placed with an improvement district, the district shall expressly accept said obligation upon the plat or by a separate instrument filed in the Public Records.

C. **Reduction of street width.** When pedestrian circulation is to be accomplished solely by paths constructed outside the streets, the Development Review Committee may approve a concurrent request by the developer to reduce local street widths from those required pursuant to Sec. 8.22.A.2 by no more than eight (8) feet if such reduction would neither reduce the vehicular carrying capacity and safety of the streets nor compromise the safety of pedestrians.

D. **Crosswalks.** When the block length exceeds nine hundred (900) feet, crosswalks between streets may be required where deemed essential by the County Engineer to provide convenient pedestrian circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

SEC. 8.23 CLEARING, EARTHWORK, AND GRADING.

A. **Minimum required improvement.** The Developer shall be required to clear all rights-of-way and to make all grades for streets, parking tracts, lots, and other areas proposed to be developed, compatible with on-site tertiary drainage patterns established by the approved drainage design.

B. **Unsuitable materials.** The Developer shall remove and replace unsuitable materials, as determined pursuant to Sec. 8.3.E and 8.16.F. Replacement of unsuitable materials within streets and proposed public areas shall be satisfactory to and meet with the approval of the County Engineer, who shall require such soil tests of the backfill and the underlying strata at the cost of the developer as may be deemed necessary to ascertain the extent of required removal, suitability of replacement material, and acceptability of the proposed method of placement.

SEC. 8.24 STORMWATER MANAGEMENT.

A. **Minimum required improvement.** The following shall be the minimum required improvement for all developments to implement the level of service under the Drainage and Capital Improvements Elements of the Comprehensive Plan.

1. A complete, fully functional tertiary stormwater drainage system, including necessary lot grading, ditches, canals, swales, storm sewers, drain inlets, manholes, headwalls, endwalls, culverts, and other appurtenances, shall be required for the positive drainage of storm water runoff in conformance with the approved drainage plans.

2. A complete and fully functional secondary stormwater system shall be required in conformance with the approved stormwater management plan.

3. A means to convey all stormwater discharge from the development site to at least one (1) point of legal positive outfall shall be provided as an integral part of the required stormwater management system, including construction of all necessary conveyance facilities and establishment of appropriate easements for operation and maintenance of said off-site facilities.

4. Adequate physical and legal means shall be provided to ensure the continued conveyance of all pre-development flow of surface waters into or through the development site from adjacent lands. Unless otherwise specified by ordinance, regulation, or condition of development approval, such conveyance may be accomplished by incorporating the inflow into the on-site stormwater management system or diverting the inflow to its pre-development location of outflow from the development site, including construction of all necessary conveyance facilities and establishment of appropriate easements to accommodate said inflow.

5. All facilities necessary to meet requirements for stormwater treatment, off-site discharge control, and conveyance of existing inflows applicable to that portion of the site under construction must be in place and operational at the time of commencement of construction of required improvements , and shall be maintained by the developer until such time that all required improvements are acknowledged as complete.

B. General criteria. Secondary and tertiary stormwater facilities for each subdivision, and for each lot, street, and other development site within the subdivision, shall be designed and constructed so as to:

1. Prevent flooding and inundation to a degree consistent with levels of protection adopted by the Comprehensive Plan for buildings, streets, lots, parking areas, recreational areas, and open space;

2. Maintain stormwater runoff rates at levels compatible with safe conveyance and/or storage capacities of drainage facilities and established legal limits applicable to receiving waters at the point of discharge;

3. Mitigate degradation of water quality and contravention of applicable state water quality standards in surface and groundwaters receiving stormwater runoff;

4. Provide facilities for conveyance to legal positive outfall of all allowable discharges of stormwater runoff from each development site without causing or contributing to inundation of adjacent lands;

5. Provide for continued conveyance of pre-development stormwater runoff and surface waters that flow into or through the development site from adjacent lands;

6. Provide for long-term, low maintenance, low cost operation by normal operating and maintenance methods;

7. Provide for necessary maintenance of the pre-development range of groundwater levels to prevent adverse impacts on land uses and water resources of the development site and adjacent lands; and

8. Promote percolation, recharge, and reuse of stormwater.

C. **Hydrologic design data.** Unless otherwise specified by a particular design or performance standard, or approved by the County Engineer based on justification submitted by the developer's engineer for an individual case, hydraulic and hydrologic data used in design of stormwater management facilities shall be based on:

1. Rainfall intensity-duration-frequency curves for FDOT-Zone 10;

2. Rainfall hyetographs of 24-hour total rainfall as published in South Florida Water Management District - Management and Storage of Surface Waters Permit Information Manual -Volume IV;

3. Rainfall quantity (or intensity) vs. time distributions in accordance with those published by SFWMD or FDOT, or the SCS - Type II (South Florida Modified) distribution;

4. Post-development runoff characteristics, such as slopes, available soil storage, runoff coefficients, ground cover, channelization, and overland flow routing, applicable to the development site and contributory off-site areas after complete development has occurred;

5. Maximum operating tailwater elevations at the outlet of each conveyance or discharge facility, determined as the maximum hourly average receiving water surface elevation resulting from a 24-hour duration rainfall with a return period equal to that of the design storm applicable to the facility, or as otherwise established by the agency having operational jurisdiction over the receiving water elevation.

D. **Design flood elevation determination.** Unless otherwise specified by a particular design or performance standard, the 100-year flood elevation applicable to a development site shall be determined as the highest of:

1. The base flood elevation specified for the area of development located within zones designated A, AH, or A1-30 as delineated on the appropriate Federal Flood Insurance Rate Map (FIRM);

2. The wind or current driven wave elevation specified for the area of development located within zones designated V1-V30 as delineated on the appropriate FIRM;

3. The inundation elevation obtained by adding the depth of shallow flooding to the area-weighted mean pre-development elevation of the area of development located within zones designated A0 as delineated on the appropriate FIRM;

4. The 100-year inundation elevation established by SFWMD within specific sub-areas of the C-51 Canal and C-18 Canal watersheds pursuant to Chapter 40E-41, F.A.C.; or

5. Where not otherwise established by Chapter 40E-41, F.A.C., or by a County drainage plan adopted pursuant to the Comprehensive Plan, the maximum inundation elevation resulting from the total on-site storage of runoff produced by the 100-year, 3-day rainfall event assuming fully developed site conditions and no discharge of surface water from the development site.

E. **Tertiary stormwater system design and performance.** The tertiary system shall consist of all drainage features and facilities such as storm sewerage, swales, gutters, culverts, ditches, erosion protection, and site grading necessary for the immediate drainage and rapid removal of stormwater from building sites, streets, and areas of other land uses subject to damage or disruption by inundation in accordance with acceptable levels of service as established by the Comprehensive Plan.

1. **Lot and building site drainage.** In order to provide for such levels of service, tertiary drainage for lots and buildings shall meet the following minimum requirements.

   a. The minimum finished floor elevation of the principal building(s) to be constructed on a lot or portion thereof shall be at or above the 100-year flood elevation applicable to the building site.

   b. Site grading immediately adjacent to the perimeter of each building shall be sloped so as to drain away from the structure.

   c. Each single family residential lot shall be graded to drain along or within its property lines to the street or parking area providing immediate access, unless adequate common drainage facilities in expressed drainage easements with an established maintenance entity are provided to accommodate alternative drainage grading.

   d. Each residential lot with gross area of one-quarter acre or less shall have a finished grade not lower than the maximum water surface elevation produced by the 3-year, 24-hour rainfall event in any detention or retention facility receiving stormwater runoff from the lot.

   e. Each residential lot with a gross area greater than one-quarter acre shall have a finished grade as specified in Sec. 8.24.E.1.d within twenty (20) feet of any principal building site. The remainder of the lot shall be graded at sufficient elevation to ensure that inundation does not persist for more than eight (8) hours following cessation of the 3-year, 24-hour rainfall event, unless such area is designated for stormwater management purposes and included in an expressed easement for drainage, floodplain, or the like.

2. **Minor street drainage.** Except as provided in Sec. 8.24.E.3, minor streets shall have tertiary drainage meeting or exceeding the following minimum requirements.

   a. The minimum edge of pavement elevation of any street segment shall be no lower than two (2) feet above the control elevation of any detention or retention facility receiving runoff from that segment.

   b. Roadside swales shall conform to applicable County standards and shall be designed and constructed such that:

(1) The flowline gradient is at least 0.30%, but not greater than 2.5% unless approved erosion protection is provided;

(2) The flowline gradient is equal to or slightly exceeds the longitudinal gradient of adjacent pavement;

(3) The water surface elevation of swale flow resulting from peak runoff based on the 3-year rainfall event shall not exceed the adjacent edge of pavement at any point along the swale run. However, at least one storm sewer inlet or other acceptable discharge facility shall be provided for every six hundred (600) linear feet of swale, and no single swale run shall exceed four hundred (400) feet to an inlet; and

(4) The soil adjacent to each inlet is protected from local scour by installation of a four (4) foot wide perimeter apron of sod or concrete.

c. Curb and gutter drainage shall conform to applicable County standards and shall be designed and constructed such that:

(1) The flowline gradient is at least 0.20%;

(2) The water surface elevation of flow resulting from peak runoff based on the 3-year rainfall event shall not exceed the adjacent centerline elevation of pavement at any point. However, at least one storm sewer inlet or other acceptable discharge facility shall be provided for every six hundred (600) linear feet of pavement, and no single gutter run shall exceed four hundred (400) feet to an inlet; and

(3) Surface flow of runoff across street intersections is prevented by provision of corner inlets and cross drains or by grading of gutters to flow away from the intersection.

3. Non-Plan collector street drainage. Non-Plan collector streets shall have tertiary drainage meeting all appropriate requirements for minor streets except that:

a. Conveyance capacity of road drainage facilities shall be based on peak runoff resulting from the 5-year rainfall event; and

b. The water surface elevation of gutter flow resulting from peak runoff based on the 5-year rainfall event shall not exceed the adjacent centerline elevation of the outermost travel lane at any point.

4. Parking tract and parking area drainage. Each residential parking area serving three or more dwelling units and all non-residential parking areas shall have a finished grade elevation not lower than the maximum water surface elevation produced by the 3-year, 24-hour rainfall event in any retention, detention, or conveyance facility receiving stormwater runoff from the lot. However, where detention or retention is provided by subsurface

exfiltration systems the finished grade shall be no lower than the maximum storage elevation produced by the 5-year, 24-hour event.

5. Storm sewerage. Storm sewerage shall be designed and constructed so as to meet or exceed the following requirements.

a. Where not otherwise specified, all storm sewer system capacity design shall, at a minimum, provide for conveyance of peak inflow from the applicable catchment, based on the 3-year rainfall event, such that the hydraulic gradient elevation does not exceed the grate or cover elevation at any inlet or manhole under tailwater conditions pursuant to Sec. 8.24.C.5.

b. Inlet times assumed for determining required street drainage system capacity shall not exceed ten (10) minutes, unless adequate justification for use of longer times is submitted.

c. Storm sewer pipe shall have a nominal diameter of not less than fifteen (15) inches, or equivalent oval pipe size.

d. Storm sewerage shall be designed to attain design flow velocities of not less than two and one half (2.5) feet per second in all pipe runs serving two (2) or more inlets, nor greater than ten (10) feet per second in any pipe run.

e. A suitable access structure such as a manhole, junction box, or inlet must be installed at each junction or change in pipe size slope, or direction.

f. The maximum pipe run between access structures shall be:

300 ft . for 15" and 18" pipe
400 ft. for 24" - 36" pipe
500 ft. for 42" and larger pipe.

g. All pipe used in the storm sewer system shall be either reinforced concrete or metal, covered by and conforming to current ASTM, AASHTO, or ANSI standard specifications for materials and fabrication of barrel and joints, and shall meet current FDOT standard specifications and policies applicable to the intended use.

h. Concrete pipe shall have gasket joints.

i. When metal pipe is used beneath pavement within a street, it shall be designed to provide a joint-free installation or, where joint-free installations are not feasible, shall be jointed with a twelve-inch wide band having a mastic or neoprene gasket providing a watertight joint. Other jointing techniques meeting or exceeding these requirements may be used upon submittal to and approval by the County Engineer.

j. Drainage pipe shall be fitted with headwalls, endwalls, inlets and other appropriate terminating and intermediate structures. Structure design shall meet or exceed County standards.

F. **Secondary stormwater system design and performance.** The secondary system, including all facilities and appurtenant structures for detention, retention, discharge, and conveyance to legal positive outfall, shall be designed and constructed to provide the degree of treatment and control of all stormwater runoff discharged from a development site necessary to meet the requirements of the agency having jurisdiction over receiving waters at each point of legal positive outfall.

1. In addition to requirements expressly stated herein:

   a. Secondary facilities for development subject to permitting by individual or general permit from South Florida Water Management District pursuant to Chapters 40E-4, 40E-40, or 40E-41, F.A.C., shall meet all requirements for issuance of the applicable permit; and

   b. Secondary facilities for each residential, commercial, and industrial development exempt from South Florida Water Management District permitting pursuant to Chapter 40E-4, F.A.C., except an individual residential lot containing not more than two (2) dwelling units, shall be designed and constructed on site, or otherwise be provided through authorized connection to off-site secondary facilities, so as to limit the discharge rate at the point of legal positive outfall to not more than the peak runoff rate produced by the site under pre-development conditions for both the 3-year, 1-hour and the 25-year, 72-hour rainfall events,and either:

      (1) Detain the greater of the first one (1) inch of runoff or the total runoff from the 3-year, 1-hour rainfall event; or

      (2) Retain the initial portion of runoff in an amount equal to one-half of that required to be detained.

2. No discharge of stormwater runoff resulting from rainfall up to and including the 25-year, 72-hour event shall take place from a development site except by means of one or more approved discharge structures, other than those existing inflows from off-site for which separate, approved means of conveyance through the site have been provided.

3. Facilities for conveyance of discharge to each point of legal positive outfall shall be designed and constructed with adequate capacity to accommodate the combined flow from the applicable discharge structure(s) and all inflows from other contributory areas resulting from the 25-year, 72-hour rainfall event without overflow to adjacent lands.

4. Except where bulkheading is approved in accordance with Sec. 7.6, each wet detention/retention facility designed for storage of stormwater runoff in an open impoundment shall have:

a. Side slopes no steeper than 4(H):1(V) extending to a depth of at least two (2) feet below the design control elevation;

b. side slopes no steeper than 2(H):1(V) from two (2) feet below control elevation to the bottom of the facility; and

c. A continuous berm, at least twenty (20) feet wide with a cross-slope no steeper than 8 (H): 1 (V), graded adjacent to the shoreline. Where said berm abuts any residential lot, it shall be graded at an elevation not lower than the maximum design water surface elevation resulting from the 3-year, 24-hour rainfall event. Along portions of the impoundment where the design water surface is less than forty (40) feet wide at control elevation a berm shall be required on only one side, provided that adequate legal and physical access is established from a minor street to each separate segment of the remaining berm.

5. Dry detention/retention facilities designed for storage in open impoundments shall have side slopes no steeper than 4(H):1(V).

6. All normally exposed side slopes and maintenance berms of open impoundments shall be fully grassed or otherwise protected from erosion.

7. Each piped inlet to an open impoundment shall have a concrete or sand-cement rip-rap endwall designed and constructed with suitable foundation for installation on the slope or bed of the impoundment as applicable. However, the endwall may be eliminated on inlets to wet detention impoundments where the pipe is installed with the crown at least two (2) feet below the control elevation and with the pipe invert protruding at least two (2) feet beyond the side slope.

8. Stormwater runoff from pavement, roofs, and unpaved areas of compacted soil surfaces with no significant vegetative cover shall be directed over grassed, pervious soil surfaces as diffused flow prior to entering wet detention/retention facilities or dry detention facilities in order to promote infiltration, particulate deposition, nutrient removal, and interception of debris or other undesirable materials which may overload, pass through, cause nuisance conditions in, or increase maintenance needs of said facilities.

9. In order to protect against overdrainage of surrounding lands, no control elevation shall be lower than the pre-development average annual mean water table elevation of the detention facility site.

G. **Drainage and maintenance access rights.**

1. Each secondary system facility for detention or retention of stormwater runoff in an open impoundment shall be placed entirely within a water management tract dedicated or deeded to an acceptable entity responsible for operation and maintenance of the stormwater management system.

2. Except as otherwise provided pursuant to this article, there is hereby required around each water management tract established for purposes of wet detention or retention in an open impoundment a lake maintenance easement a minimum of twenty (20) feet in width and graded at a slope no steeper than 8 (H):1 (V), coinciding with the required maintenance berm. The width of the easement shall be measured from the point at which the grade is not steeper than 8 (H):1 (V). Lake maintenance from an abutting local street may be permitted by the County Engineer in accordance with good engineering practices. Access to a lake maintenance easement from at least one (1) local street shall be established as part of said easement or, when necessary, by separate expressed easement or other instrument of record. A lake maintenance easement shall be required on only one (1) side of the water body or water management tract where the water surface at control elevation does not exceed forty (40) feet in width; provided, however, that elimination of said easement does not isolate any remaining lake maintenance easement from proper access. If the water surface at the control elevation is greater than forty (40) feet wide, a lake maintenance easement shall be required on both sides. No lake maintenance easement shall be required behind bulkheads; provided, however, an easement not less than ten (10) feet in width shall be provided behind bulkheads where necessary to provide access to outfalls and, further, that elimination of said portion of lake maintenance easement does not result in isolating any remaining lake maintenance easement from required access. In residential subdivision, lake maintenance easements, including required access, shall be established over common areas only, and shall not encroach residential lots.

3. Drainage easements. Drainage easements shall be provided where necessary at a width adequate to accommodate the drainage facilities. A minimum width of twelve (12) feet shall be provided for underground storm drainage installations. Where swales are used, the width shall be adequate to accommodate the entire design section between tops of slope. Where canals or ditches are permitted, the width shall be adequate to accommodate drainage facilities plus twenty (20) feet on one side for maintenance purposes. Drainage easements shall be provided to accommodate existing drainage of surface waters from off-site contributory areas. When a subdivision is traversed by existing canals, watercourses, streams, drainage ways or channels, there shall be provided a drainage easement or right-of-way conforming substantially with the lines of such watercourse and of such further width or construction or both as will be adequate for access, maintenance, and floodplain purposes.

H. Certificate of compliance for lots. When the finished lot grading required by Secs. 8.24.E.1 and 8.24.E.4 is to be completed in conjunction with building construction, prior to issuance of the Certificate of Occupancy the developer shall submit to the Building Director a Certificate of Compliance from a Florida registered professional surveyor, engineer, or landscape architect. Such statement shall be in a form approved by the Building Department and shall state that lot grading was done in accordance with either the approved grading plan for the subdivision or, in the absence of such plan, in accordance with the applicable requirements of Secs. 8.24.E.1 and 8.24.E.4.

SEC. 8.25 WASTEWATER SYSTEMS.

A. **General requirement.** Except in rural subdivisions, a sewage collection/transmission system with appropriate service connection to each lot shall be provided for connection to a central sewer system. Such system shall be designed and installed in accordance with the Department of Environmental Regulation (DER) requirements, applicable permits or approvals obtained from the utility responsible for the central sewer system, and the appropriate permits secured from the PBCPHU.

B. **Package treatment plant (on-site).** In the absence of a central sewer system, use of a package treatment plant will be allowed only under the following circumstances:

1. The subdivision is located within the service area of a central sewer system and extension of service to the subdivision is in the utility's master plan;

2. The package treatment plant will be operated by the utility and abandoned upon extension of the central sewer system; and

3. Zoning approval is secured as required in Article 6 of this Code;

The package treatment plant must be designed and constructed in accordance with the requirements of DER and a permits secured from the PBCPHU.

C. **Individual system.** In rural subdivisions, a septic tank system is an acceptable method of sewage disposal for each lot, when permitted by the PBCPHU as per the standards prescribed in Sec. 7.10.

SEC. 8.26 POTABLE WATER SYSTEMS.

A. **General requirement.** Except in rural subdivisions, a potable water distribution system with appropriate service connection to each lot shall be provided for connection to a central water system. Such system shall be designed and installed in accordance with the Department of Environmental Regulation (DER) requirements, applicable permits or approvals obtained from the utility responsible for the central water system, and the appropriate permits secured from the PBCPHU.

B. **Package treatment plant (on-site).** In the absence of a central water system, use of a package treatment plant will be allowed only under the following circumstances:

1. The subdivision is located within the service area of a central water system and extension of service to the subdivision is in the utility's master plan;

2. The package treatment plant will be operated by the utility and abandoned upon extension of the central water system; and

3. Zoning approval is secured as required in Article 6 of this Code;

The package treatment plant must be designed and constructed in accordance with the requirements of DER and a permits secured from the PBCPHU.

C. **Individual system.** In rural subdivisions, or where otherwise allowed, an individual well system is an acceptable method of providing potable water for each lot, when permitted by the PBCPHU pursuant to the standards prescribed in Sec. 7.11.

SEC. 8.27 UTILITIES.

A. **Required improvement.** All utilities, including power and light, telephone and telegraph, cable television, wiring to street lights, and gas shall be installed underground, unless such requirement is waived by the County Engineer, as provided in this section. Utilities shall be constructed in easements as prescribed by this section. The developer shall make arrangements for utilities installation with each person furnishing utility service involved.

B. **Easements.** Utility easements twelve (12) feet wide shall be provided where necessary to accommodate all required utilities across lots and shall have convenient access for maintenance. Where possible easements shall be centered on lot lines. Where possible, utility easements should be provided for underground utilities across the portion(s) of the lot abutting a street or parking area. When a utility easement is to abut a street, the width may be reduced to ten (10) feet. Additional utility easements may be required by the County when, in the opinion of the County Engineer, such easements are necessary for continuity of utility service between subdivisions or other development and where necessary for maintenance and service. Utility easements and drainage easements shall not be combined. Where crossings occur, drainage easements shall take precedent. Easements shall be coordinated with requisite utility authorities and shall be provided as prescribed by this article for the installation of underground utilities or relocating existing facilities in conformance with the respective utility authority's rules and regulations.

C. **Exceptions to underground installation.**

1. **Applicability.** This section shall apply to all cables, conduits, or wires forming parts of an electrical distribution or communications system, including service lines to individual properties and main distribution feeder electrical lines delivering power to local distribution systems. This section shall not apply to wires, conduits or associated and supporting structures whose exclusive function is to transmit or distribute electricity between subdivisions, generating stations, substations and transmission lines of other utility systems, or perimeter lines located adjacent to a subdivision.

2. **Standard exception for appurtenant, on the ground facilities.** Appurtenances such as transformer boxes, pedestal mounted terminal boxes, meter cabinets, service terminals, telephone splice closures, pedestal type telephone terminals or other similar "on the ground" facilities normally used with and as a part of the underground distribution system may be placed above ground, but shall be located so as not to constitute a traffic hazard.

3. **Exceptions requiring approval of County Engineer.** All other proposals for above-ground installation of utilities shall be submitted to the County Engineer at the time of the

preliminary submittal. Such request shall be made in writing and noted on the construction plans. The County Engineer shall, at the time of the preliminary review, consider the request and all pertinent information, including but not limited to the construction plans, existing installations, and other information the County Engineer deems necessary. Any approval or denial pursuant to this subsection shall be set forth in writing, which may be by separate statement to the developer and the developer's engineer or may be part of the County Engineer's response to the preliminary review.

4. Convertability. Any new service which, by virtue of an approved waiver granted pursuant to this section, is allowed to be supplied by overhead utilities shall be connected to a service panel that is convertible for underground utility service at a future date.

D. Installation in streets. After the subgrade for a street has been completed, and before any material is applied, all underground work for the water mains, sanitary sewers, storm sewers, gas mains, telephone, electrical power conduits and appurtenances and any other utility shall be installed completely through the width of the street to the sidewalk area or provisions made so that the street will not be disturbed for utility installation. All underground improvements installed for the purpose of future service connections shall be properly capped and backfilled.

SEC. 8.28 FIRE RESCUE SERVICES.

A. Required improvement. Fire hydrants shall be provided where central water systems are provided. Fire hydrants shall be provided in the manner prescribed in this section.

B. Single family developments of less than five (5) units per acre. Fire hydrants shall be spaced no greater than six hundred (600) feet apart and not more than three hundred (300) feet to the center of any lot in the subdivision and shall be connected to mains no less than six (6) inches in diameter. The system shall provide capability for fire flow of at least seven hundred (700) gallons per minute in addition to a maximum day requirement at pressures of not less than twenty (20) pounds per square inch. The system shall have the capability of sufficient storage or emergency pumping facilities to such an extent that the minimum fire flow will be maintained for at least four (4) hours or the current recommendations of the insurance services office, whichever is greater.

C. Multiple family developments of over five (5) dwelling units per acre, commercial, institutional, industrial or other high daytime or nighttime population density developments. In these areas fire hydrants shall be spaced no greater than five hundred (500) feet apart and the remotest part of any structure shall not be more than three hundred (300) feet from the hydrant and shall be connected to mains no less than six (6) inches in diameter. Fire flow shall be provided at flows not less than 1200 gallons per minute in addition to a maximum day requirement at pressures of not less than thirty (30) pounds per square inch.

D. Charges for use. Charges made for the use of the fire hydrant or water consumed therefrom when a fire protection authority uses the fire hydrant in the performance of its official duty shall be as regulated by the Public Service Commission.

SEC. 8.29 SUBDIVISION DESIGN AND SURVEY REQUIREMENTS.

A. **Required improvement.** The Developer shall install the required buffering and, when recording a plat, shall comply with Sec. 8.29.F. for setting of "P.R.M.s" and "P.C.P.s".

B. **Buffering.** Residential developments shall be buffered and protected from adjacent expressways, arterials and railroad rights-of-way with a five (5) foot limited access easement, which shall be shown and dedicated on the plat, except where access is provided by means of a marginal access road or where such expressway, arterial or railroad right-of-way abuts a golf course.

C. **Blocks.**

1. **General considerations.** The length, width and shape of blocks shall be determined with due regard to:

   a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;

   b. Zoning requirements as to lot size and dimensions;

   c. Need for convenient access, circulation, control and safety of vehicular and pedestrian traffic; and

   d. Limitations and opportunities of topography.

2. **Maximum length.** Block lengths shall not exceed one thousand three hundred twenty (1320) feet between intersecting streets. Provided, however, that greater lengths may be approved by the County Engineer on an individual basis after considering such factors as but not limited to, lot size, the ADT, number of through streets, street layout and other engineering considerations, in accordance with acceptable engineering practices.

D. **Lots.** All lots shall have the area, frontage, width, and depth required by this Code or applicable zoning approval for the prevailing or approved use zone wherein said lots are located.

1. **Existing structures.** When a subdivision is proposed upon land with existing structures that are proposed to be retained, lots are to be designed so as not to cause said existing structures to become nonconforming.

2. **Lots abutting major streets.** When lots are platted abutting a major street or non-Plan collector street, access shall be provided by and limited to local streets or residential access streets. No access from individual lots shall be permitted directly to a major street.

3. **Through lots.** Double frontage lots or through lots shall be avoided except where essential to provide separation of residential development from major streets or to overcome specific disadvantages of topography or orientation. Where double frontage lots are developed they shall be buffered as required by this Code.

E. Minimum safe sight distance at intersections. Corner lot lines at intersecting street lines shall be the long chord of a twenty-five (25) foot radius, except that at the intersection of two (2) Thoroughfare Plan streets the radius shall be forty (40) feet. Corner lots shall be designed to facilitate a safe intersection with respect to minimum stopping and turning sight distances in accordance with criteria prescribed in the most recent edition of the FDOT Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways. A restriction shall be placed on the plat prohibiting structures or landscaping over thirty (30) inches high within any additional safe sight area required to be established over an individual lot in order to accommodate unusual conditions in the design of the lot or alignment of adjacent streets, said height being measured from the street crown elevation at the intersection.

F. Survey requirements.

1. Permanent Reference Monuments ("P.R.M.s"). Where monuments occur within street pavement areas, they shall be installed in a typical water valve cover as prescribed in the current County Standards.

2. Permanent Control Points ("P.C.P.s"). Permanent control points shall be installed as follows.

a. Installation prior to plat recordation. Where required improvements are constructed prior to recordation, the permanent control points shall be set prior to submission of the Final Plat and certified by the surveyor in accordance with Sec. 8.20.B.15.c.

b. Installation after plat recordation. Where required improvements are constructed after recordation, the permanent control points shall be set under the guarantees as required by Sec. 8.21.A.8. In such case, the surveyor's certificate shall comply with Sec. 8.20.B.15. The signing surveyor shall provide the County Engineer with a copy of the recorded certification required by Chapter 177.091, Fla. Stat., as to his placement of the permanent control points.

SEC. 8.30 VARIANCES.

A variance from the literal or strict enforcement of the provisions of this ordinance may be granted by the Board of Adjustment in accordance with the provisions set forth in Sec. 5.7.

SEC. 8.31 STANDARD FORMS.

A. **General.** The forms and formats contained in the Land Development Forms Manual have been approved as standard by the County Attorney and the County Engineer, as appropriate. All specific agreements, guaranties, certifications, and other legal documents are subject to the approval of the County Attorney. Alternate form(s) may be approved for use pursuant to this article, provided the County Attorney has first approved such alternate form(s) in writing.

B. **Dedications and reservations.** Dedications and reservations shall be specified in accordance with the substantive requirements of Sec. 8.20.B.15, and shall be subject to approval by the County Attorney prior to plat recordation.

ARTICLE 9.

ENVIRONMENTAL STANDARDS

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ENVIRONMENTAL STANDARDS

SEC. 9.1. COASTAL PROTECTION.

A. PURPOSE AND INTENT.

The purpose of this section is to preserve and protect the integrity of the coastal beach/dune system from any activity which would tend to destabilize the dune or reduce the ability of the coastal beach and dune to respond naturally to storm events. A naturally functioning beach/dune system is vital to the protection of upland property, the control of beach erosion, hurricane protection, coastal flood control and shoreline and offshore rehabilitation. In addition, it is a vital physical feature of the natural environment possessing outstanding geological, biological, recreational and scenic value for this and succeeding generations of citizens. This section is also intended to reduce impacts of coastal development on sea turtles.

B. DEFINITIONS.

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

1. Alteration or materially alter means, for the purpose of this section, the removal, addition, or moving of sand; the removal or addition of any vegetation by planting or transplanting; or the destruction, pruning, cutting, or trimming of any vegetation, but shall exclude the removal of trees, seedlings, runners, suckers, and saplings of prohibited and invasive non-native plant species identified in Section 7.5.H, Vegetation Preservation and Protection. It shall also mean any construction, excavation or placement of a structure which has the potential to affect coastal biological resources, the control of beach erosion, hurricane protection, coastal flood control or shoreline and offshore rehabilitation.

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

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

4. Beach means the zone of unconsolidated material that extends landward from the mean high water line of the Atlantic Ocean to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. Beach is alternately termed shore.

5. Beach access point shall mean any path through or over the dune used by the general public or, with respect to private property, by the owner or with the owner's permission, for the purpose of gaining access to the beach.

6. Beach cleaning means the clearing or burying of seaweed, debris, dead fish, or trash or the contouring of the beach by raking and leveling, provided that such activity shall not disturb existing beach or dune vegetation. Such activity shall not change the final ground elevations greater than one foot.

7. Beach compatible sand shall mean any sand that is similar to the native beach and dune material in terms of grain, size, distribution and color. The fill material shall consist of sand that falls within the same size classification of sand within the Unified Soils Classification System [i.e., find sand (0.074 to 0.42 mm), medium sand (0.42 to 2.0 mm) and coarse sand (2.0 to 4.76 mm)] as that of the native beach material. The acceptable silt/clay fraction (<0.074 mm) and gravel/cobble fraction (>4.76 mm) shall be determined by ERM based upon site conditions. Sand grain size analyses shall be consistent with the grain size methodology described in Folk, Robert L. 1980, Petrology of Sedimentary Rocks. The fill material color shall match the color of the existing beach and dune coloration as closely as possible.

8. Beach fill means sand placed on the beach.

9. Beachfront lighting shall mean all lighting within the jurisdictional boundaries of this section.

10. Board means the Board of County Commissioners representing Palm Beach County.

11. Coastal Protection Zone means an area of jurisdiction established by this section. This zone extends from the mean high water line of the Atlantic Ocean to a line twenty-five (25) feet landward of the crest of dune or the State of Florida Coastal Construction Control Line, whichever is more landward.

12. Coastal vegetation means all native plant species indigenous to Palm Beach County's beaches and dunes. The coastal vegetation species allowed for use are provided in this section.

13. Crest of the dune means the highest point in elevation of the dune.

14. Day means calendar day unless otherwise stated.

15. Dune means a hill or ridge of windblown sand and marine deposits lying landward of, and adjacent to, the beach which is formed by natural or artificial processes.

16. Dune profile means the cross-sectional configuration of the dune.

17. Egg means a shelled reproductive body produced by sea turtles.

18. Emergency means any unusual incident which results in immediate danger to the health, safety, welfare or resources of the residents of the County, including damages to, or erosion of, any shoreline resulting from a hurricane, storm, or other such violent disturbance.

19. ERM means the Palm Beach County Department of Environmental Resources Management.

20. Excavation means removal or displacement of soil, sand, or vegetation by the process of digging, dredging, cutting, scooping, or hollowing out.

21. Ground-level barrier means any natural or artificial structure rising above the ground which prevents beachfront lighting from shining directly onto the beach-dune system.

22. Hatchling means any specimen of sea turtle, within or outside of a nest, which has recently hatched from an egg.

23. Listed Species means any species listed as endangered, threatened, rare, or of special concern by one (1) or more of the following agencies: (1) U.S. Fish and Wildlife Service; (b) Florida Game and Fresh Water Fish Commission; (d) Florida Committee on Rare and Endangered Plants and Animals; (e) Florida Department of Agriculture and Consumer Services; or (f) Treasure Coast Regional Planning Council.

24. Motor vehicle includes any auto, car, van, truck, tractor, motorcycle, dune buggy, moped, ATC, or other similar vehicles, but excludes wheelchairs and emergency rescue vehicles.

25. Nest means the area in which sea turtle eggs are naturally deposited or relocated beneath the sediments of the beach-dune system.

26. Nesting season means the period from March 1 through October 31 of each year.

27. Peak nesting season means the period from May 1 through October 31 of each year.

28. Permitted agent of the State means any qualified individual, group or organization possessing a permit from the Florida Department of Natural Resources (FDNR) to conduct activities related to sea turtle protection and conservation.

29. Sand means sediments having a distribution of particle diameters between 0.074 and 4.76 millimeters, as defined in the Unified Soils Classification System. Sand grain analyses

shall follow the methodology described in Folk, Robert L. 1980, Petrology of Sedimentary Rocks to determine grain size distribution.

30. Sand Preservation/Sea Turtle Protection Zone (SP/STPZ) means an area of jurisdiction, established by this Section, for the purpose of maintaining the volume of beach sand within the beach-dune system, as well as regulating coastal lighting. This zone extends from the mean high water line of the Atlantic Ocean to a line six hundred (600) feet landward.

31. Sea turtle(s) means any specimen belonging to the species Caretta caretta (loggerhead turtle), Chelonia mydas (green turtle), Dermochelys coriacea (leatherback turtle) or any other marine turtle using Palm Beach County beaches as a nesting habitat.

32. Seedling, sapling, runner, or sucker means any young plant or tree in early stages of growth.

33. Structure includes anything constructed or erected temporarily or permanently on the ground or attached to something having a permanent location on the ground and shall include houses, pools, patios, garages, gazebos, shore protection devices, pavement, signs, walls, bulkheads, fences, radio towers, or other types of construction with interior surfaces.

34. Tinted glass means any window which has: (a) a visible light transmittance value of forty-five (45) percent or less; and (b) a minimum of five (5) year warranty; and (c) performance claims which are supported by approved testing procedures and documentation.

35. All definitions as provided in Rule 16B-33.002 and 16B-41, F.A.C., of the Florida Department of Natural Resources, Rules and Procedures for Coastal Construction and Excavation are adopted as if set forth in full herein. In the event of a conflict between this Section and the adopted F.A.C., the provisions which are more stringent shall govern.

C. SHORT TITLE AND APPLICABILITY.

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

2. All provisions of this section shall be effective within the unincorporated and incorporated areas of Palm Beach County, Florida, and shall set restrictions, constraints and requirements to preserve and protect the coastal beaches, dunes, coastal vegetation, sea turtles and sea turtle habitat.

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

4. This section shall apply to any activity that has the potential to adversely impact the coastal beaches, dunes and sea turtles in Palm Beach County within the limits of jurisdiction.

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

D. AUTHORITY.

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

E. JURISDICTION.

1. ERM shall have regulatory authority over alterations to the beaches, dunes and coastal lighting. This section establishes two (2) zones of jurisdiction -the Coastal Protection Zone and the Sand Preservation/Sea Turtle Protection Zone.

2. The Coastal Protection Zone is established for the purposes of protecting the integrity of the coastal beach and dune system. This zone extends from the mean high water line of the Atlantic Ocean to a line twenty-five feet (25') landward of the crest of the dune or the State of Florida Coastal Construction Control Line (CCCL), whichever is more landward. In areas where the natural dune has been severely altered due to clearing, grading or armoring, a twenty-five (25) foot setback shall be established from the top of armoring.

3. The Sand Preservation/Sea Turtle Protection Zone is established for two (2) reasons. They are: (a) for the purposes of maintaining the volume and quality of beach sand presently existing within the beach/dune system. (The unique characteristics of the sediments contained in the existing beaches and dunes of Palm Beach County require the preservation of these materials within the beach/dune system) and; (b) for the purpose of minimizing and controlling coastal lighting. The Sand Preservation/Sea Turtle

Protection Zone extends from the mean high water line of the Atlantic Ocean to a line six hundred feet (600') landward.

4. Within the limits of jurisdiction of the Coastal Protection Zone as defined in this section, no person, firm, corporation, municipality, special district or public agency shall:

   a. construct any structure;

   b. place any soil, sand or material;

   c. make any excavation;

   d. remove any existing soil, sand or beach material or otherwise alter existing ground elevations;

   e. alter, damage or cause to be damaged any sand dune or coastal vegetation;

   f. install any artificial lighting; or

   g. drive any motor vehicle on, over, or across any beach or sand dune without first having obtained a permit from ERM as provided for in this section. Nothing herein shall prevent official motor vehicles of any governmental agency or permitted agent of the State from traversing any sand dune or beach in the performance of official duties, provided the vehicle operators avoid coastal vegetation whenever possible and drive as close to the low water line as possible.

5. Within the limits of jurisdiction of the Sand Preservation/Sea Turtle Protection Zone as defined in this subsection, no person, firm, corporation, municipality, special district or public agency shall remove any beach or dune sediments from their property or from the Sand Preservation/Sea Turtle Protection Zone or install any artificial lighting without first having obtained a permit from ERM as provided for in this section.

6. Upon request, ERM shall provide a Coastal Protection Zone jurisdictional determination of a specified parcel of land. The request shall include at least three (3) topographic surveys of the subject property with a scale of 1" = 20' or less, within the property boundaries clearly marked. The survey shall include the Coastal Construction Control Line (CCCL) as well as spot elevations to the nearest one tenth foot throughout the beach-dune area. At the request of ERM, the landowner may be required to provide additional elevations, directions, or access or field markings of the subject property. Such jurisdictional determinations shall be considered accurate by ERM for a period of two (2) years unless there is a change to this section, at which time the jurisdictional determination shall be considered invalid.

F. EXEMPTIONS.

1. The following activities are exempt from the permitting requirements of this section:

a. The voluntary planting of native dune plants as identified on the approved plant list (Sec. 9.1.0) provided that:

(1) planting which is located seaward of the existing vegetation strand occurs outside of the peak sea turtle nesting season (May 1 through October 31),
(2) that no existing dune vegetation will be impacted during the course of planting, and
(3) plant selection is based upon the appropriate dune zone to be revegetated (pioneer, scrub, forest).

b. Minor dune enhancement projects which involve the placement of no greater than 100 cubic yards of beach compatible sand within the coastal protection zone provided that:

(1) its placement area will not impact native dune vegetation,
(2) the fill area is vegetated within 10 days of placement with approved plants (Sec 9.1.0);
(3) construction occurs outside of the peak sea turtle nesting season (May 1 through October 31; and
(4) plant selection is based upon the appropriate zone to be revegetated (pioneer, scrub, forest).

c. The removal of harmful exotic vegetation provided that no native vegetation will be adversely impacted and provided that cleared areas are quickly replanted with native coastal vegetation according to the list provided in Section 9.1.O. and will be placed in appropriate natural zones on the dune profile.

d. The placement of lifeguard towers on an unvegetated area of the beach outside the peak sea turtle nesting season.

e. The installation of public utility transmission lines provided that such lines are designed to minimize impacts to native vegetation and occur outside the peak sea turtle nesting season. If impacts to the vegetation are unavoidable, any loss shall be replaced in kind, following utility line placement.

f. Those projects for which ERM determines that there will be no significant environmental impacts.

G. GENERAL PERMITS

1. General Permits are required for the construction of dune walkovers, coastal vegetation trimming, beach cleaning, emergency repairs, dune revegetation and maintenance projects that are not otherwise exempt, and minor fill projects involving the placement of 101 to 500 cubic yards of fill over less than 10,000 square feet. General Permits shall be issued provided the proposed project complies with the criteria specified in Sec. 9.1.H.

Applicants with proposed projects that do not meet the criteria for a General Permit must apply for a Permit pursuant to 9.1.I.

2. General Permit applications shall be made on a form approved by ERM. ERM may make use of forms already in use by State and/or federal agencies.

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

   a. a completed application form;

   b. an explanation of the purpose and necessity of the project;

   c. a description of construction techniques and schedules.

   d. photographs of existing conditions which may include aerial photographs;

   e. plans showing profile and plan views including elevations of proposed and existing structures, dune and vegetation;

   f. sediment analysis of existing dune and beach and any proposed fill material.

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

5. Upon receipt of an application and appropriate application fee, ERM shall have twenty (20) days to request any additional information pursuant to Sec. 9.1.G.3 above.

6. If ERM does not make a request for additional information within twenty (20) days of receipt of an application and appropriate application fee or requested information, the application shall be deemed complete upon receipt.

7. Failure to respond to an ERM request for additional information within sixty (60) days may result in the application being denied without prejudice. However, ERM may grant an extension of time as is reasonably necessary to fulfill a request for additional information.

8. Upon receipt of a completed application and fee, ERM shall have forty-five (45) days to take final action unless the applicant agrees in writing to a time extension or waiver of this requirement. Final agency action shall be General Permit issuance, conditional General Permit issuance, or notice of inapplicability under the General Permit criteria.

9. Any General Permit application containing false information may be rejected and any General Permit issued based upon false information may be revoked.

10. General Permits may be issued by ERM with a duration of one (1) year with annual renewal conditioned upon General Permit compliance.

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

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

13. Any site or applicant that is subject to or recipient of a notice of violation or notice of General permit noncompliance that remains unresolved shall not to be issued an ERM General Permit or Permit.

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

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

H. CRITERIA FOR ISSUANCE OF A GENERAL PERMIT.

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

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

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

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

d. The proposed project will not adversely impact the conservation of wildlife or their habitats with special emphasis placed upon the protection of listed species.

e. Project alternatives and modifications to lessen impacts have been determined to be infeasible.

f. The project is not in contravention with any other federal, state or local designated preserve, conservation or mitigation area.

g. ERM determines that the cumulative impacts of the subject project and other similar projects will also meet the criteria of this section.

h. Any and all light fixtures shall be designed to be the minimum level necessary for safety and will be positioned such that they do not cause illumination (direct or indirect) of areas seaward of the existing seawall or crest of dune and the source of light is not directly visible from the beach.

i. There shall be no adverse impacts to sea turtles, sea turtle nesting and sea turtle habitat. Measures that may be implemented to protect sea turtles include:

(1) Design and placement of structures to minimize impacts;

(2) Scheduling construction to occur outside peak nesting season;

(3) Daily nesting surveys allowing nests to be marked and avoided during construction; or

(4) Elimination or alternation of all proposed or existing exterior lights that cause direct or indirect illumination of areas seaward of the existing crest of dune or which are visible from the beach.

j. The proposed project is in accordance with Rule 16B-33.005, F.A.C., Florida Department of Natural Resources (FDNR) Rules and Procedures for Coastal Construction and excavation. In the event of a conflict between this section and the F.A.C., the provisions which are more stringent shall govern.

k. The proposed project is in accordance with Rule 16B-33.007, F.A.C., Rules and Procedures for Coastal Construction and excavation. In the event of a conflict between this section and the adopted F.A.C., the provisions which are more stringent shall govern.

l. ERM staff shall consider the FDNR Policy Memoranda (PM) 1-32 when evaluating coastal permit applications.

2. In addition to the foregoing general criteria, a general permit shall not be issued for the following specific activities unless and until the following specific criteria have been met:

a. **Dune Walkovers**. When issuing permits for dune walkovers, ERM shall require that:

(1) Privately owned structures shall not exceed four (4) feet in walkway width.

(2) Publicly owned structures or those serving multi-family residences or resorts shall not exceed eight (8) feet in width.

(3) The walkover shall be located in an area that will ensure minimal disturbance to existing native vegetation. Construction activity shall disturb the minimum amount of vegetation with preference given to preserving scrub and forest zone vegetation and in no case shall such disturbance exceed the width of the permitted walkover.

(4) The slope of the walkover shall match the slope of the dune as closely as possible while still meeting applicable building codes for stairs.

(5) Construction which has potential impacts to sea turtle nesting shall occur only between November 1 and April 30.

(6) Information Sign Requirements. Permanent sea turtle information signs shall be conspicuously posted by applicable jurisdictions at all public beach access points provided with dune crossovers. The information signs shall be standardized by the ERM.

(a) Sea turtle information signs shall be encouraged at all new private beach access points provided with dune crossovers. Signage shall be the responsibility of the property owner.

(b) Sign Maintenance Requirements. Standardized sea turtle information signs shall be maintained in perpetuity such that information printed on the signs remains accurate and legible and the signs positioned such that they are conspicuous to persons at all public beach access points provided with dune crossovers.

(c) Sign Removal. Removal of the information signs by anyone other than those authorized by ERM is prohibited.

b. **Coastal Vegetation Trimming**

In order to create visual corridors between upland properties and the ocean, coastal vegetation may be trimmed on an annual basis. The objective of these criteria is to provide for these visual corridors without having a negative impact upon the beaches, dunes and native dune ecosystems. No coastal vegetation trimming shall be permitted if it results in additional lights being visible from

the beach or exposure of salt-sensitive coastal hammock vegetation to increased salt spray. Coastal vegetation trimming projects shall comply with the following criteria:

(1) Reducing height of sea-grapes. Sea-grape trees may be permitted to be maintained to ten (10) feet in height. For trees greater than ten (10) feet in height, the sea-grape will not be reduced greater than twenty-five (25) percent per year to a height of ten (10) feet. If the height of sea-grapes is reduced, no windows shall be permitted under the trimmed canopy.

(2) Viewing windows. Viewing corridor "windows" may be trimmed through sea-grapes provided they meet the following criteria:

(a) No "window" may be over twenty (20) feet in length.

(b) All "windows" shall be separated by a minimum of twenty (20) feet of untrimmed dune vegetation.

(c) "Windowing" shall not comprise more than twenty percent (20%) of the property frontage.

(d) The maximum height of any "window" shall be eight (8) feet (as measured from the landward side of the sea-grape stand).

(e) Only branches less than one (1) inch in diameter may be trimmed.

(f) All sea-grapes shall retain a minimum four (4) feet canopy after trimming (as measured from the landward side of the sea-grape stand).

(g) Sea-grapes shall be a minimum of eight (8) feet in height (as measured from the landward side of the sea-grape stand) before "window" trimming will be considered.

(h) Where "windowing" occurs no hedging will be permitted.

(3) Freeze damaged sea-grapes. Freeze damaged sea-grapes may be trimmed for aesthetic reasons. However, ERM general permits for such alteration shall be subject to the following conditions:

(a) ERM shall not consider a request to trim freeze damaged sea-grape until October 1, following the freeze event.

(b) Freeze damaged sea-grape shall not be reduced by more than fifty (50) percent of the original height and in no case shall the height be reduced lower than four (4) feet above the ground elevation.

(c) Freeze damaged sea-grape may be altered by removing dead wood no closer than one (1) foot from live material, in no case to exceed the specifications of Sec. 9.1.H.2.b.

(d) Branches removed shall be chipped and left on the dune.

c. **Beach Cleaning Activity**. Routine raking of seaweed and other natural debris is strongly discouraged because of the role it plays in dune formation, beach stabilization and as a food source for birds and invertebrates that inhabit the coastal zone. Beach cleaning activities should target and be designed for the removal of man created trash and litter.

(1) Beach cleaning equipment will be permitted on the beach provided that mechanized equipment is not used within fifteen (15) feet of any existing coastal vegetation. Existing coastal vegetation specifically includes isolated patches of pioneer plants and seedlings.

(2) Naturally occurring organic debris such as seaweed shall be left on the beach. The debris may be either left in place or raked into piles. Outside of peak sea turtle nesting season, the piles may be buried in a continuous line along the beach or placed at the base of an unvegetated dune scarp provided that mechanized equipment is not used within fifteen (15) feet of the toe of the dune or within fifteen (15) feet of any existing vegetation. During peak sea turtle nesting season, debris must be left at or below the previous high tide mark. Trash and litter, such as plastics, shall be removed from the beach and properly disposed of at a resource recovery facility or recycling center. Raked debris shall not be placed on adjacent property without permission from the adjacent property owner.

(3) Equipment, methodologies and points of access shall be consistent with beach-dune preservation policies established by Palm Beach County and the State.

(4) Beach cleaning shall be confined to daylight hours.

(5) During the peak nesting season (May 1 through October 31):

(a) Beach cleaning operations shall be limited to the wrack line (previous high tide mark) or below.

(b) Light-weight motorized vehicles having wide, low-profile, low pressure tires shall be used to conduct beach cleaning operations instead of heavy equipment.

(c) Devices used for removing debris from the beach shall be designed and/or operated such that they do not penetrate beach sediments by more than two (2) inches.

(d) Access for beach cleaning equipment is restricted to access points approved by ERM.

d. Emergency Repairs. An emergency repair may be authorized where the proposed construction is necessary to prevent the imminent collapse of a structure; or where the proposed construction is for placement of sand fill or sand-filled bags and a structure which constitutes a human hazard. ERM staff shall conduct an on-site inspection and an evaluation prior to authorizing any emergency repair.

e. Dune Restoration. When issuing general permits for dune restoration (101 to 500 cubic yards over 10.000 square feet or less), ERM shall require that:

(1) All plants used for restoration plantings must be selected from the Approved Plant List, Section 9.1.O. ERM may approve additional species on the list that can be documented to be local native coastal species.

(2) Plants shall be selected according to vegetation community being restored: pioneer zone, scrub zone or forest zone.

(3) Temporary irrigation systems may be installed, but must be placed above the ground and removed or disconnected from the water source within six (6) months of the completion of planting.

I. PERMITS.

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

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

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

a. A completed application form.

b. An explanation of the necessity and purpose of the project.

c. A description of construction techniques and schedules.

d. Photographs of existing conditions which may include aerial photographs.

e. Plans showing profile and plan views including elevations of the proposed structure, dune and vegetation.

f. Sediment analysis of existing dune and beach and any proposed fill material.

g. Engineering models and predictions.

h. Biological evaluation of the proposed project site.

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

(1) The location, number, wattage, elevation, orientation and type of proposed floodlights, spotlights and other fixtures discharging lighting.

(2) The location, number, wattage, elevation, orientation and type of all other artificial light sources including, but not limited to, those used on balconies, walkways, recreational areas, roadways, parking lots, dune crossovers, decks, boardwalks and signs.

(3) Protective/mitigative measures to minimize lighting impacts on sea turtles, including measures to prevent direct illumination of areas seaward of the crest of the dune.

(4) Window tinting specifications for all windows within line of sight of the beach including percentage of visible light transmittance.

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

(1) A schedule of proposed construction periods.

(2) The number of lineal feet of shoreline seaward of the dune upon which construction will occur.

(3) The number and type of vehicles anticipated during construction, the type of equipment and materials to be used seaward of the dune, and

the location of beach access points to be used in moving equipment and materials to and from the construction site.

(4) The location, number, wattage, elevation and orientation, and type of temporary nighttime security lights.

(5) Protective/mitigative measures to minimize construction impacts on sea turtles.

(6) Name and FDNR turtle permit number of person responsible for implementing protective measures.

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

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

6. Upon receipt of an application and appropriate application fee, ERM shall have thirty (30) days to request any additional information pursuant to Sec. 9.1.I.3 above. Within thirty (30) days of receipt of such additional information, ERM may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information. ERM may begin processing an application in the absence of the appropriate application fee. However, no time clocks of this subsection shall begin until the appropriate application fee is received.

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

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

9. Upon receipt of a completed application and fee, ERM shall have ninety (90) days to take final action unless the applicant agrees in writing to a time extension or waiver of this requirement. Final agency action shall be permit issuance, permit denial, or conditional permit issuance. Failure by ERM to take final action within ninety (90) days shall result in the authorization of the proposed work with standard limiting conditions.

10. Any application containing false information may be rejected and any permit issued based upon false information may be revoked.

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

12. ERM may attach conditions to any permit where such conditions are deemed reasonably necessary to protect sea turtles, the environmental integrity of the subject site or areas of potential impact.

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

14. Any site or applicant that is subject to or recipient of a notice of violation or notice of permit noncompliance issued by ERM that remains unresolved shall not be issued an ERM permit.

15. Any substantial modification to a compete application, or to an issued permit, shall require an amended application form and an additional application fee pursuant to Sec. 9.1.M and shall restart all time periods of this subsection.

J. CRITERIA FOR ISSUANCE OF A PERMIT.

1. A permit may be issued pursuant to this section provided that the applicant provides to ERM reasonable assurance that the following criteria will be met:

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

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

c. There shall be no net loss of sand from the Sand Preservation/Sea Turtle Protection Zone. Sand temporarily excavated from the Sand Preservation/Sea Turtle Protection Zone shall be returned to the Sand Preservation/Sea Turtle Protection Zone prior to the expiration date of the permit. In addition, the sand may not be degraded by mixing with any sediment, soil, or material that is not approved by ERM.

d. The proposed project will not adversely impact the conservation of wildlife or their habitats with special emphasis placed upon the protection of listed species.

e. Project alternatives and modifications to lessen impacts have been determined to be infeasible.

f. The project is not in contravention with any other federal, state or local designated preserve, conservation or mitigation area.

g. ERM determines that the cumulative impacts of the subject project and other similar projects will also meet the criteria of this section.

h. Any and all light fixtures shall be designed to be the minimum level necessary for safety and will be positioned such that they do not cause illumination (direct or indirect) of areas seaward of the existing seawall or crest of dune and the source of light is not directly visible from the beach.

i. There shall be no adverse impacts to sea turtles, sea turtle nesting and sea turtle habitat. Measures that may be implemented to protect sea turtles include:

(1) Design and placement of structures to minimize impacts;

(2) Scheduling construction to occur outside peak nesting season;

(3) Daily nesting surveys allowing nests to be marked and avoided during construction; or

(4) Elimination or alternation of all proposed or existing exterior lights that cause direct or indirect illumination of areas seaward of the existing crest of dune or which are visible from the beach.

(5) <u>Exterior light and windows</u>.

(a) Standards for new beachfront lighting. All lighting installed after September 2, 1987 in unincorporated Palm Beach County and in municipalities that do not have a sea turtle protection ordinance in effect shall comply with the following standards:

1) General Prohibition. No artificial public or private light source shall directly or indirectly illuminate areas seaward 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.

2) Permanent Lighting. The installation of permanent lighting shall reflect the standards and mitigative measures published in the current state-of-the-art manual pertaining to coastal lighting and sea turtle conservation (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).

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.

4) 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.

b) All lights on balconies shall be eliminated or shielded from the beach.

c) High intensity lighting for decorative or accent purposes shall not be permitted within the zone of jurisdiction. Lighting used in parking lots within five hundred (500) feet of the mean high water line shall be:

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

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

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

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 registered architect or professional engineer shall conduct a site inspection which includes a night survey with all the beachfront lighting turned on.

b) The inspector shall prepare and report the inspection finding in writing to ERM, identifying:

i) The date and time of initial inspection.

ii) The extent of compliance with this section.

iii) All areas of potential and observed noncompliance with this section.

iv) Any action(s) taken to remedy observed noncompliance and date remedy will be implemented, if applicable.

v) The date(s) and time(s) of remedial inspection(s), if applicable.

c) The inspector shall sign and seal the inspection report which includes a certification that:

i) The beachfront lighting has been constructed in accordance with this section.

ii) The inspector observed the project area at night with all lights operating.

iii) The beachfront lighting does not illuminate areas seaward of the crest of the dune at the time of the night inspection.

iv) The beachfront light sources within the jurisdictional boundaries are not directly visible from the beach at the time of the night inspection.

(b) Standards for Existing Beachfront Lighting. Existing beachfront lighting shall comply with the following conditions by April 1, 1988.

1) Adjustment to Essential Lighting. Existing artificial light sources shall be repositioned, modified or replaced with modern alternatives so that the source of light is not directly visible from the beach and/or does not directly or indirectly illuminate areas seaward of the crest of dune. In some cases, it may be desirable to retrofit fixtures and install low pressure sodium vapor lights producing wavelengths between 589 and 590 nanometers. Modifications using low pressure sodium lighting shall be coordinated with ERM. Techniques and/or materials used shall be consistent with the Raymond manual referenced in Section 9.1.J.1.i.(5)(a) and other reference manuals identified by ERM.

2) Reduction of Indirect Lighting on the Beach. The installation of ground level barriers including dense native vegetation is strongly encouraged and may be required to reduce the amount of indirect lighting striking the beach-dune system.

3) Lighting for Pedestrian Traffic. Lights illuminating beach access points, dune crossovers, beach walkways, piers or any other structure seaward of the crest of the dune designed for pedestrian traffic shall

be the minimum level necessary to maintain safety and shall be located and shielded such that lights and their illumination are not directly visible from the beach.

4) Use of Window Treatments. To prevent interior lights from illuminating the beach, window treatment shall be required on all windows visible from the beach within jurisdictional boundaries. Blackout draperies or shadescreens are preferred. Alternatively or additionally, window tint may be applied to beachfront windows. The turning out of all unnecessary interior lights during the nesting season is strongly encouraged.

5) Special Lighting Restrictions During the Peak Nesting Season. Effective May 1, 1988, and continuously throughout each peak nesting season (May 1 through October 31), external light sources that are visible from the beach or illuminate directly or indirectly areas seaward of the crest of the dune shall be turned off.

6) Enforcement and Implementation of Mitigative Measures. In areas where compliance with the lighting conditions of this ordinance are not evidenced, non-compliant property owners shall be required to implement appropriate protective measures, developed in consultation with ERM to mitigate against potential negative impacts to sea turtles. Mitigative measures shall be implemented in addition to applicable penalties and fines. Any mitigation program implemented as a result of noncompliance with lighting conditions of this ordinance shall remain in effect until such time that acceptable beachfront lighting is achieved. Relocation of nests shall be considered only as a last resort and as a temporary measure while other solutions are being developed and implemented.

j. The proposed project is in accordance with Rule 16B-33.005, F.A.C., Florida Department of Natural Resources (FDNR) Rules and Procedures for Coastal Construction and excavation. In the event of a conflict between this section and the F.A.C., the provisions which are more stringent shall govern.

k. The proposed project is in accordance with Rule 16B-33.007, F.A.C., Rules and Procedures for Coastal Construction and excavation. In the event of a conflict

between this section and the adopted F.A.C., the provisions which are more stringent shall govern.

l. ERM staff shall consider the FDNR Policy Memoranda (PM) 1-32 when evaluating coastal permit applications.

K. MITIGATION.

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

2. When to Evaluate Mitigation Proposals.

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

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

3. Standards for Mitigation.

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

      (1) Landward of Armored Shoreline.....1.0:1

      (2) Natural Shoreline

         (a) Pioneer Zone Vegetation.....2.0:1

         (b) Scrub Zone Vegetation.....3.0:1

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

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

(1) Uncertainties exist as to the probable success of the proposed restoration or creation; or

(2) The degradation or destruction will deprive Palm Beach County of various dune values for a period of time until the restoration or creation is completed and functional; or

(3) Mitigation is proposed off-site or not in kind; or

(4) Mitigation proposals include restoration or enhancement of an existing dune rather than a new creation.

L. APPEALS.

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

M. FEES.

1. A fee shall be required as established by the approved fee schedule.

2. Permit application fees shall be non-refundable and nontransferable.

3. All application fees paid by check shall be made payable to the Palm Beach County Board of County Commissioners.

N. ENFORCEMENT.

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

2. Failure to comply with the requirements of this section or any permit or approval granted or authorized hereunder shall constitute a violation of this section. Violations of the provisions of this section, upon conviction, shall be punished by a fine not to exceed five hundred dollars ($500) per violation, per day, or by imprisonment in the County jail not

to exceed sixty (60) days, or by both fine and imprisonment pursuant to the provisions of Sec. 125.69, Fla. Stat. In addition to the sanctions contained herein, the County and/or other municipal entity may 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. It is the purpose of this section to provide additional cumulative remedies.

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

   a. Pedestrians shall not transverse a natural dune within 200 feet of a public dune walkover except by use of the walkover or other approved walkovers.

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

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

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

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

   f. Alteration of a sea grape shall constitute an individual violation pursuant to this section.

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

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

6. All monies collected pursuant to violations of this section shall be deposited in the Pollution Recovery Trust Fund.

O. APPROVED PLANT LIST

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

Pioneer Zone

Alternanthera maritima	chaff flower
Alternanthera ramosissima	chaff flower
Ambrosia hispida	ragweed
Bidens pilosa	spanish needles
Borrichia arborescens	sea oxeye
Canavalia maritima	bay bean
Cenchrus spp.	sand spur
Chamaesyce spp.	beach spurge
Cnidoscolus stimulosus	tread softly
Commelina erecta	day flower
Croton glandulosus	beach croton
Distichlis spicata	salt grass
Helianthus debilis	beach sunflower
Hymenocallis latifolia	spider lily
Ipomoea pes-caprae	railroad vine
Ipomoea stolonifera	fiddleleaf morning glory
Iva imbricata	beach elder
Okenia hypogaea	beach-peanut
Panicum amarum	dune panic grass
Paspalum vaginatum	seashore paspalum
Remirea maritima	beach star
Salsola kali	Russian thistle
Scaevola plumieri	ink berry
Sesuvium portulacastrum	sea purslane
Spartina patens	cordgrass
Sporobolus virginicus	seashore droposeed
Suriana maritima	bay cedar
Tournefortia gnaphalodes	sea lavendar
Tribulus cistoides	puncture weed
Uniola paniculata	sea oats

Scrub Zone

Agave decipiens	agave
Andropogon capillipes	chalky bluestem
Ardisia escallonioides	marlberry
Arenaria pentandra	sandwort
Baccharis halimifolia	grounsel
Borrichia frutescens	sea daisy
Callicarpa americana	American beautyberry
Capparis flexuosa	limber caper
Centrosema virginianum	butterfly pea
Chiococca alba	snowberry
Chrysobalanus icaco	cocoplum
Coccoloba uvifera	sea grape
Commelina erecta var. angustifolia	day flower
Crotalaria pumila	beach rattlebox
Croton glandulosus	beach croton
Dalbergia ecastophyllum	coin vine
Echites umbellata	Devil's potato
Ernodea littoralis	golden creeper
Eugenia axillaris	white stopper
Eugenia foetida	Spanish stopper
Flaveria linearis	yellowtop
Galactia macreei	milk pea
Guapira discolor	blolly
Hamelia patens	fire bush
Iva imbricata	beach elder
Ipomoea indica	purple morning glory
Jacquemontia reclinata	beach jacquemontia
Lantana involucrata	wild sage
Licania michauxii	gopher apple
Lycium carolinianum	Christmas berry
Melanthera aspera	melanthera
Melothria pendula	creeping cucumber
Mikania cordifolia	climbing hempweed
Morinda royoc	yellowroot
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 lavendar
Trichostema suffrutescens	blue curls
Uniola paniculata	sea-oats
Verbena maritima	beach verbena
Vigna luteola	cow pea
Yucca aloifolia	Spanish bayonet

Forest Zone

Amyris elemifera	torchwood
Ardisia escallonioides	marlberry
Bursera simaruba	gumbo limbo
Caesalpinia bonduc	nickerbean
Capparis cynophallophora	Jamaica caper
Capparis flexuosa	Limber caper
Chiococca alba	snowberry
Citharexylum fruticosum	fiddle wood
Chrysobalanus icaco	cocoplum
Coccoloba diversifolia	pigeon-plum
Coccoloba uvifera	sea-grape
Cocos nucifera	coconut palm
Conocarpus erecta	button wood
Diospyras virginiana	persimmon
Drypetes lateriflora	Guiana-plum
Erythrina herbacea	coral bean
Eugenia axillaris	white stopper
Eugenia foetida	Spanich stopper
Exothea paniculata	inkwood
Ficus aurea	strangler fig
Forestiera segregata	Florida privet
Guapira discolor	blolly
Hamelia patens	fire bush
Ipomoea alba	moonflower
Ipomoea indica	purple morning glory
Krugiodendron ferreum	black ironwood
Mastichodendron foetidissimum	wild mastic
Metopium toxiferum	poison wood
Morus rubra	red mulberry
Myrsine floridana	myrsine
Nectandra coriacea	lancewood
Persea borbonia	red bay
Pithecellobium guadalupense	blackbead
Psychotria nervosa	wild coffee
Quercus virginiana	live oak
Randia aculeata	white indigo berry
Rivina humilis	rouge plant
Sabal palmetto	cabbage palm
Serenoa repens	saw palmetto
Simarouba glauca	paradise tree
Urechites lutea	wild allamanda
Zanthoxylum fagara	wild lime

SEC. 9.2. ENVIRONMENTALLY SENSITIVE LANDS.

A. PURPOSE AND INTENT.

The purpose and intent of this section is to preserve and protect the values and functions of environmentally sensitive lands from land alterations that would result in the loss of these lands or significant degradation of their values and functions.

B. DEFINITIONS.

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

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

   a. The addition, removal, displacement, or disturbance (severe pruning, hatracking, poisoning) of vegetation but shall exclude prescribed ecological burning for the management of native Florida communities, the removal of trees, seedlings, runners, suckers, and saplings of prohibited and invasive non-native plant species identified in Section 7.5.H, Vegetation Preservation and Protection.
   b. Demucking and grading of soil.
   c. The removal, displacement, or disturbance of rock, minerals or water.
   d. The grazing of cattle or other livestock.
   e. Placement of vehicles, structures, debris or any other material objects thereon, including introduction or injection of water and other substances.

2. Board of County Commissioners (B.C.C.) means the Board of County Commissioners of Palm Beach County, Florida.

3. Canopy means the upper portions of trees consisting of limbs, branches, and leaves, which constitute the upper layer of a forested community.

4. County means Palm Beach County, Florida.

5. Day means calendar day unless otherwise stated.

6. Ecosystem means an assemblage of living organisms (plants, animals, microorganisms, etc.) and nonliving components (soil, water, air, etc.) that functions as a dynamic whole through which organized energy flows.

7. Environmentally sensitive lands means ecological sites (ecosites), other than wetlands, that are designated in the Inventory of Native Ecosystems in Palm Beach County and on its accompanying aerial photographs as "A" quality, representing high-quality native

Florida upland ecosystems. These sites are indicated on the aerial photographs (received on May 30, 1989) that are on file at ERM and are incorporated herein by reference.

8. ERM means the Palm Beach County Department of Environmental Resources Management.

9. Ground cover means plants, other than turf grass, normally reaching an average maximim height of not more than twenty-four inches (24") at maturity.

10. Invasive non-native plant species means any plant not indigenous to this state, which exhibits, or has the potential to exhibit, uncontrolled growth and invasion or alteration of the natural qualities of any native ecological community. A list of invasive, non-native plant species shall be maintained by ERM.

11. Inventory of Native Ecosystems in Palm Beach County means reports and annotated aerials produced during the study with this title, which was conducted by consultants under contract to Palm Beach County.

12. Listed Species means any species listed as endangered, threatened, rare, or of special concern by one (1) or more of the following agencies:

    a. U.S. Fish and Wildlife Service;
    b. Florida Game and Fresh Water Fish Commission;
    c. Florida Committee on Rare and Endangered Plants and Animals;
    d. Florida Department of Agriculture and Consumer Services; and
    e. Treasure Coast Regional Planning Council.

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

14. Understory means the structural component of a forest community below the canopy and above the ground layer composed of a complex of woody, fibrous or herbaceous plant species.

15. Wetland means any persistent or intermittent water body or area characterized by the dominance of those submerged or transitional wetland species listed in the Florida Administrative Code Rule 17-301 or located within or up to three (3) miles directly offshore of Palm Beach County. Dominance shall be defined in accordance with Florida Administrative Code Rule 17-301 and shall be determined in the appropriate plant stratum (canopy, subcanopy, or ground cover) as outlined in Florida Administrative Code Rule 17-301.

C. APPLICABILITY.

All provisions of this section shall apply within the unincorporated and incorporated areas of Palm Beach County, Florida and shall set restrictions, constraints and requirements to preserve and protect environmentally sensitive lands. The provisions of this section shall apply to the alteration

of land in any manner that has the potential to impact the values and functions of those sites identified as "A" quality native uplands in the Inventory of Native Ecosystems in Palm Beach County ("environmentally sensitive lands"). No person shall cause the alteration of environmentally sensitive lands, unless such alteration is exempted or approved under the provisions of this section.

D. EXEMPTIONS.

An applicant who is entitled to and desires an exemption from the requirements of this section shall submit an application for exemption to ERM, with accompanying evidence that the applicant is entitled to the exemption pursuant to this section. This application shall include, at a minimum, a description of the nature and date of the alteration or proposed alteration, documentation of prior approval(s), a site location map, photographs, and, if possible, two (2) recent aerial photographs clearly delineating the location of the property. If the application is for a project claiming an exemption pursuant to the vested rights exemptions of Sec. 9.2.D.5, the application shall include evidence of the applicable approval, approving entity, and any supporting documentation. If the application is for a project claiming exemption pursuant to the single-family lots of this Code, the application shall include a copy of the lot survey. ERM shall make a determination of the applicant's eligibility for an exemption and render a written decision thereon within thirty (30) days of receipt by ERM of the application for exemption and all information necessary to make the exemption determination. An applicant may appeal ERM's decision within twenty (20) days of receipt of ERM's final action, pursuant to Sec. 9.2.G. No alterations shall occur until receipt of ERM's written exemption notice.

1. Previous alterations. An exemption from the requirements of this section is available for any project whereby, upon the effective date hereof, all of the following conditions are applicable:

   a. The environmentally sensitive land has been altered prior to November 2, 1989;

   b. The land alteration occurred pursuant to valid permits from all applicable regulatory entities; and

   c. The environmentally sensitive land no longer retains the natural values and functions on which the designation of environmental sensitivity was based.

2. Existing, documented legal uses. The provisions of this section shall not apply to existing legal uses for which, upon November 2, 1989, a level of use has been documented. Documented uses may continue at this same level, but an increased level of use or a change in use shall come under the regulatory scope of this section.

3. Single-family lots. An exemption from the requirements of this section is available for a single-family residential lot provided that, upon November 2, 1989, the lot contained less than four (4) acres of environmentally sensitive lands.

4. Preserve management activities. An exemption from the requirements of this section is available for preserve management activities on publicly- or privately-owned lands, provided that all of the following conditions are applicable:

   a. The preserve area is designated as such by deed restriction, conservation easement, dedication to a public entity or approved private conservation group for the purpose of preservation in perpetuity or such other similar protective measures as determined by the appropriate governmental entity;

   b. The purpose of the activity is protection and preservation of the natural values and functions of the ecological communities present, such as clearing of firebreaks for prescribed burning or construction of fences; and

   c. The owner or management entity provides documentation of such designation and purpose to ERM and receives written approval from ERM prior to undertaking the activity. Such documentation need be provided only once for a particular site if an approved long-term management plan for the area is included.

   The use of existing roads or trails, for example, as firebreaks are preferred to the construction of new access roads or fire lanes since new construction generally results in the introduction and spread of invasive non-native plant species.

5. Vested rights. An exemption from the requirements of this section is available for any project for which, by November 2, 1989:

   a. A building permit has been issued; or

   b. A site plan approval has been issued; or

   c. A subdivision approval pursuant to County subdivision plat law has been issued; or

   d. A master plan approval has been issued; or

   e. Any municipal equivalent of a, b, c, or d, above has been issued; or

   f. A complete application for a, b, c, d, or e, above was submitted on or before August 22, 1989; or

   g. A valid development order for a Development of Regional Impact has been issued; or

   h. A sufficiency notification for a Development of Regional Impact has been issued by the Treasure Coast Regional Planning Council; and

i. The approval granted has not expired or a substantial change to the development plan, as defined in this Code, has not been made.

6. Other vested rights exemptions. If an applicant, in good faith, upon an act or omission of the County or municipality, has made such a substantial change in position or has incurred extensive obligations and expenses such that the application of the requirements of this section would be highly inequitable and unjust by destroying the right acquired, then the applicant may submit to ERM an application for exemption pursuant to Sec. 9.2.D.5 with all accompanying documentation to evidence the existence of said vested right. The application shall be reviewed by the Palm Beach County Attorney's Office and ERM shall provide a written response within sixty (60) days of submittal of all documentation needed to evaluate the requested exemption.

7. Development approvals. Any project that has received a development approval pursuant to the procedures and criteria of Secs. 9.2.D.5. or 6. shall be exempt from further consideration unless the approval granted is no longer applicable due to the expiration of the permit or approval or because a substantial change has been made to the development plan, as defined in this Code.

E. DELETION OF SITES FROM INVENTORY.

Pursuant to direction by the Board issued on October 3, 1989, ERM shall have begun and shall continue to delete from the Inventory of Native Ecosystems in Palm Beach County those sites or portions of sites:

1. Upon which alteration has legally occurred and the environmentally sensitive land no longer retains the natural values and functions on which the designation of environmental sensitivity was based; or

2. Whereon, an exemption has been granted pursuant to Sec. 9.2.D.1 and 9.2.D.3.

Once a site is deleted from the Inventory of Native Ecosystems in Palm Beach County, it shall not be subject to further regulation under this section.

F. REVIEW PROCEDURES FOR PROPOSED LAND ALTERATION.

Proposed land alteration approval by the County or a municipality shall be required prior to the approval of any development order that would allow the alteration of Environmentally Sensitive Lands. The County or responsible municipality shall consider the results of an environmental assessment with comments and recommendations by ERM prior to the issuance of a development order for the alteration of Environmentally Sensitive Lands.

1. Application. ERM's evaluation of the proposed alteration or development shall be based on the environmental impact study submitted by the property owner or a designated agent. For residential lots five (5) acres or less in size and containing four (4) acres or more of environmentally sensitive lands, ERM shall complete the site assessment needed to make an evaluation of the proposed development project. A written statement from

ERM declaring the capability of the site plan to fulfill the intent of this section shall then be provided. For all other projects, the property owner or designated agent shall provide the following information:

a. Complete application form.

(1) Proposed land alteration applications shall be made on forms developed by ERM and made available to the public, and

(2) An application shall not be deemed complete until the application fee has been received by ERM and an environmental impact study, containing all information necessary to fully understand the extent, nature, and potential impacts of proposed land alteration activity, has been deemed to be sufficient by ERM based on the information required in this Section.

b. Site conditions.

(1) Site location map - with the specific property clearly indicated.

(2) Aerial photograph - with the specific property and acreage clearly indicated (Scale: 1" = 300' or less).

(3) Map of existing terrestrial and aquatic vegetation, including invasive non-native plant species and native plant community types. A description of each native plant community type, including canopy, understory, and ground cover shall be provided.

(4) Soil type(s) and condition(s).

(5) List of Listed Species found on site.

(6) Colonial bird nesting or roosting areas or areas in which migratory species are known to concentrate.

(7) Archaeologically and historically significant features.

(8) Geologically significant features.

(9) Areas of previous disturbance or degradation, including present and past human uses of site.

(10) Surrounding land uses.

c. **Project description and preserve design.**

(1) Proposed preserve area at the same scale and as an overlay to the vegetation map detailed in Section 9.2.F.1.b.(3).

(2) Existing zoning.

(3) Status of development approvals, including permit applications.

(4) General project description.

d. **Professional certification.** All drawings for applications other than work on a private single-family residential lot shall be sealed or certified by:

(1) A Florida registered professional engineer;

(2) A Florida registered professional surveyor;

(3) A Florida registered professional landscape architect; or

(4) An Environmental Professional certified by the National Association of Environmental Professionals.

2. **Determination of sufficiency.** Within thirty (30) days of the receipt of an application for proposed land alteration, ERM shall determine whether the application is complete and the environmental impact study is sufficient. If ERM determines that the information provided is not sufficient, additional information reasonably determined to be required by ERM shall be requested by ERM in writing within thirty (30) days of receipt of the application. In the event no such request is made by ERM within the thirty (30) day period, then it shall be conclusively presumed that the application is complete. For the purpose of this section, the applicant shall not have met the procedural requirements for the submittal of a complete application for a development order until a complete environmental impact study and the appropriate fee have been submitted to ERM.

3. **Review and action.** Upon receipt of a complete application for proposed land alteration, ERM shall review and evaluate the environmental impacts of the proposal in light of the goals of this section. ERM shall work with the applicant and other environmental agencies to provide for the best possible preserve site and development proposal to satisfy the goals of this section, as well as allowing for sound development of the property. To allow approval of the development proposal, ERM shall provide its written comments to the appropriate governmental development review authority or authorities within forty-five (45) days of receipt of a complete application so that conditions may be placed on the approval reasonably necessary to minimize adverse environmental impacts, as described in this section. For those projects that do not otherwise require a development order, ERM shall issue an approval by letter within forty-five (45) days of receipt of a complete application if the applicant meets the approval criteria of Sec. 9.2.F.5.

4. Acquisition. Should ERM decide that public acquisition of the property should be considered as the best option to protect the environmentally sensitive lands proposed for development, ERM shall initiate action before the Board of County Commissioners and/or other appropriate municipal entity for consideration of such possibility. Action on the development application shall be deferred by the governmental development review authority for a period of time not to exceed sixty (60) days while said agencies consider the public acquisition of the land. At the expiration of the sixty (60) day period, the development application shall be allowed to proceed through the development approval process, subject to appropriate conditions described in this section, unless the land has been acquired or interest in public acquisition is formally confirmed.

   a. Application deferral. Should the Board and/or other municipal entity decide that public acquisition is the best option to protect all or part of these environmentally sensitive lands proposed for development, approval of the proposed development will be deferred for a one hundred eighty (180) day period. This extension will allow time to effect public acquisition. The Board shall adopt acquisition criteria by ordinance or resolution prior to consideration of any acquisition.

   b. Resumption of application processing. Should the Board and/or other municipal entity decide not to acquire all or part of the particular site containing environmentally sensitive lands, the development application, as modified for any lands acquired by the public, shall be allowed to proceed through the development approval process, subject to appropriate conditions as described in this section.

5. Proposed land alteration approval criteria. After consideration of ERM's recommendations, the proposed land alteration may be approved by the appropriate governmental development review authority if all of the following conditions are satisfied:

   a. At a minimum, twenty-five (25) percent of the environmentally sensitive lands shall be set aside in a preserve status for the protection and preservation in perpetuity of the values and functions of the environmentally sensitive lands, including maintenance without infringement by facilities for drainage or utility easements. Preserve areas shall consist of a single contiguous tract whenever possible and shall be identified based on the quality of habitats, the presence of listed species, proximity to other natural areas and other relevant factors. Alteration within the preserve shall require ERM approval and shall be limited to the construction of boardwalks, pervious walkways, and other passive recreational or educational facilities; the construction of firebreaks, fire lanes, or fence lines; and the removal of invasive non-native species and their replacement with native species. The use of existing roads and trails, for example, as firebreaks, is preferred to the construction of new access roads or fire lanes, as these disturbances generally result in the introduction and spread of invasive non-native plant species. The preserve area location shall be identified prior to development of the site plan or plat required for approval of a proposed development. ERM or the appropriate governmental development

review authority shall have the option to designate the portion of environmentally sensitive lands which shall be preserved. Such areas shall be selected and preserved in an unaltered condition, with intact canopy, understory and groundcover; and

b. A management plan of the preserve area shall be prepared by the applicant and shall include, but not be limited to, eradication and continued monitoring and removal of invasive non-native plant species, control of off-road vehicles, and maintenance of hydrological requirements. Periodic controlled burning or mechanical methods that would simulate the natural processes of the natural historic fire regime may be required for some areas; and

c. For those lands identified for preserve status, one of the following conditions must be enacted: placement of appropriate deed restrictions on said lands and recorded in the public records of Palm Beach County; dedication to a public entity or ERM-approved private conservation group for the purposes of preservation; establishment of appropriate restrictive conservation easements in perpetuity; or such other similar protective measures as determined by the appropriate governmental entity, upon completion of all review processes. A conservation easement shall be established for a preserve area on a single-family residential lot. The deed restriction or conservation easement shall be dedicated to the County or appropriate municipal entity and shall be recorded prior to the onset of construction; and

d. Clustering of development on less sensitive portions of the site shall be considered; and

e. All reasonable efforts, as determined by ERM, shall be made to link the preserve area to preserves, sanctuaries, refuges, parks, or open-space areas on adjacent lands to provide a corridor for movement of wildlife; and

f. For a site on which Listed Species are present, one (1) of the following criteria must be satisfied:

(1) The applicant shall successfully demonstrate that the proposed action will not preclude the continued survival and viability of those listed species located on the site; or

(2) The applicant shall present a plan for relocation, either on-site or off-site, for those listed species, which has been reviewed and approved by all appropriate agencies.

6. Master plans. If the environmentally sensitive lands, together with on-site wetlands, are greater than six hundred forty (640) acres in size and are owned by a single entity, the County or a municipal entity shall allow for consideration of a master plan which provides a minimum twenty-five (25) percent preserve area and flexibility to define the preserve area or adjust its boundaries accordingly as development proceeds. This master

plan shall include the site conditions information required pursuant to Sec. 9.2.F.1.b to enable ERM to distinguish intra-site differences in the quality of the environmentally sensitive lands. This master plan shall be submitted in lieu of the submittal requirements outlined in Sec. 9.2.F.1, except for the site conditions information and required fees. For lands identified for preserve status, protective measures as determined acceptable by the appropriate governmental entity shall be implemented. Upon consideration, approval will be granted for a master plan, provided that:

a. The minimum twenty-five (25) percent preserve area is maintained;

b. The master plan and designated preserve boundaries are approved by the County or municipal entity; and

c. The preserve area is set aside in perpetuity by deed restriction, conservation easement, or other appropriate mechanism.

7. **Transferable development rights.** The use of transfer of development rights, land banking, and other mechanisms that would allow preservation of larger tracts of environmentally sensitive land is hereby encouraged.

G. APPEALS.

An applicant may appeal a final determination of ERM made pursuant to Sections 9.2.D, 9.2.E and 9.2.F of this section to the Environmental Ordinance Appeals Board. An appeal must be made within twenty (20) days of the applicant's receipt of ERM's final action. Each hearing shall be held within sixty (60) days of submittal of all documents which the Environmental Ordinance Appeals Board deems necessary to evaluate the appeal. At the conclusion of the hearing, the Environmental Ordinance Appeals Board shall orally render its decision (order), based on evidence entered into the record. The decision shall be stated in a written order and mailed to the applicant no later than ten (10) days after the hearing. Decisions of the Environmental Ordinance Appeals Board shall be final. An applicant or ERM may appeal a final written order of the Environmental Ordinance Appeals Board within thirty (30) days of the rendition of the written order by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

H. FEE.

No application shall be deemed complete without the specified fee payment. A fee shall be required as established by the approved Fee Schedule. Fees are nonrefundable and nontransferable. Fees paid by check shall be made payable to the "Palm Beach County Board of County Commissioners".

I. CASH PAYMENT/LAND BANK OPTION AND MAINTENANCE REQUIREMENT FOR WAIVER OF PRESERVE AREA FOR PUBLIC WORKS PROJECTS.

1. General. A governmental entity may request a waiver of the establishment of a preserve area for a public works project, provided that:

   a. The applicant provides a feasibility study to ERM which describes the alternatives to the proposed project that would cause less degradation or loss of environmentally sensitive lands that have been considered and discusses the rationale for each option rejected;

   b. A cash payment is made or a land bank credit is obtained;

   c. No listed species have been determined to exist on the site; and

   d. If the proposed public works project is adjacent to other environmentally sensitive land, the maintenance plan for the project site and for the right-of-way, if the project is a roadway, shall include a provision requiring these areas to be maintained to prevent the introduction of invasive non-native plant species and their spread to the adjacent environmentally sensitive lands.

2. Non-public works projects. Non-public works projects are not eligible for the cash payment/land bank option and must comply with the review procedures for proposed land alteration specified in this section.

3. Cash payments. The Board or appropriate municipality shall have the option of accepting a cash payment in lieu of preservation. Cash payments shall be deposited into a Natural Areas Fund to be established and operated by the County for the acquisition and management of environmentally sensitive lands and wetlands. The cash payment shall be at least equivalent to the average per acre appraised value, at the time of waiver application, multiplied by the number of acres required to be preserved. Payment shall be provided to the County prior to any alteration or development activities.

4. Land banking. The Board or appropriate municipality shall have the option of accepting a land bank credit in lieu of preservation. An upland ecological communities land bank may be established by a governmental entity for mitigation of upland impacts associated with a public works project that involves the construction of new public works facilities or additions to existing facilities. The land bank shall be located within Palm Beach County and shall provide at least equivalent-quality ecological communities to those that would be altered on the site of the proposed project. The site of the land bank shall be large enough to provide for long-term maintenance of the native ecological communities present and to support mitigation for additional public works projects or have the potential to do so through acquisition of adjacent properties with similar ecological communities. For a particular public works project, the ecological community or communities used for credit at the land bank site must be of the same type and quality as the community or communities altered as a consequence of the public works project. At least two (2.0) acres of land in the land bank must be set aside for every one (1.0)

acre altered by the proposed project. The lands in the bank shall be set aside in perpetuity by deed restriction, conservation easement, or other appropriate mechanisms. The deed restriction, conservation easement, or other mechanism shall be dedicated to the County or appropriate municipal entity.

a. **Land purchase.** Land for the mitigation bank must be purchased in advance of construction of the public works project. The public entity that owns the bank may sell or trade credits to other public entities, provided that the initial public entity retains ownership of a majority (fifty (50) percent or greater) of the site and overall management responsibility. Credit from the land bank shall be given for each project as it proceeds through the development review process. The land bank site must be maintained and managed to preserve its natural values and functions and to ensure the survival of any listed species present on the site. Such management shall include, but not be limited to, removal of exotic species, prescribed burning, and fencing to prevent off-road vehicle use. Public use of land bank lands for passive recreational activities shall be encouraged. These activities shall be managed to ensure protection of the functions and values of the site. A management plan shall be developed by the initial owner and approved by ERM. All other owners shall cooperate with the initial owner in implementing this management plan.

b. **Restoration and management activities.** Restoration and management activities shall be permitted on portions of the site where such activities would benefit the long-term viability of the plant and animal communities present or restore communities that historically were present. A minimum of ten (10) percent of the funds contributed for the acquisition of the land bank shall be designated for site management and maintenance of the ecological communities.

c. **Evaluation of land banks.** The success of the first land bank shall be evaluated by the County and ERM prior to the development of additional banks.

5. **Listed species.** If listed species are determined to exist on the site, the cash payment or land bank option may be approved if one (1) of the following criteria can be satisfied:

a. The applicant successfully demonstrates that the proposed action will not preclude the continued survival and viability of those listed species located on the site; or

b. The applicant presents a plan, which has been reviewed and approved by all appropriate agencies, for relocation of those species either on-site or off-site.

J. VIOLATIONS AND PENALTIES.

1. **Fines.** Failure to comply with the requirements of this section or with any terms of approval granted or authorized hereunder shall constitute a violation of this section. Violations of the provisions of this section, upon conviction, shall be punished by a fine not to exceed five hundred dollars ($500) per violation, or by imprisonment in the County

jail not to exceed sixty (60) days, or by both fine and imprisonment pursuant to the provisions of Sec. 125.69, Fla. Stat. A violation of this section shall be the alteration of environmentally sensitive lands in any manner defined by this section, up to fifteen hundred (1,500) square feet in extent. Alteration of each additional fifteen hundred (1,500) square feet tract of environmentally sensitive lands or portion thereof in violation of this section shall constitute a separate violation of this section. Cumulative violations shall be determined by the addition of each fifteen hundred (1,500) square feet tract of environmentally sensitive lands or portion thereof, whether altered in the same manner or in a different manner, as defined by this section. Alteration of environmentally sensitive lands may result in an order to restore the site to pre-existing conditions.

2. Other actions. In addition to the sanctions contained herein, the County and other municipal entity, if applicable, may 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. It is the purpose of this section to provide additional cumulative remedies.

3. Intergovernmental coordination. Violations of this section may be referred by ERM to the Groundwater and Natural Resources Protection Board for corrective actions and civil penalties and coordinated with the appropriate municipal entity, if applicable.

4. Use of collected monies. All monies collected as fees or fines pursuant to this section shall be deposited in a Natural Areas Fund to be established for the acquisition and management of environmentally sensitive lands and wetlands. A minimum of ten (10) percent of the monies deposited in the Natural Areas Fund each year shall be available for management of lands acquired by the County as natural areas.

K. ASSESSMENT OF ENVIRONMENTALLY SENSITIVE LANDS.

1. Conveyance or covenant. Pursuant to Sec. 193.501, Fla. Stat., owners of environmentally sensitive lands other than areas set aside as preserves may, for a term of not less than ten (10) years:

   a. Convey the development rights to the County; or

   b. Covenant with the County that such land shall be subject to the conservation restrictions provided in Sec. 704.06, Fla. Stat., for conservation easements or not be used for any purpose other than passive outdoor recreational or park purposes.

2. Assessed value. The lands which are subject to such conveyance or covenant shall be assessed relative to their value for the present use as restricted by the conveyance or covenant under this section. Such restrictions on land uses and property value assessments shall be in accordance with Sec. 193.501, Fla. Stat.

L. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES.

The County shall coordinate with municipalities and other agencies regarding the purchase, protection and passive use of the environmentally sensitive lands and their component species that may be acquired under the provisions of this section.

SEC. 9.3. WELLFIELD PROTECTION.

A. PURPOSE AND INTENT.

The purpose and intent of this section is to protect and safeguard the health, safety, and welfare of the residents and visitors of Palm Beach County, Florida by providing criteria for regulating and prohibiting the use, handling, production and storage of certain deleterious substances which may impair present and future public potable water supply wells and wellfields.

B. DEFINITIONS.

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

1. Aquifer means a groundwater bearing geologic formation, or formations, that contain enough saturated permeable material to yield significant quantities of water.

2. Closure Permit means that permit required by activities which must cease operation pursuant to the provisions of Section 9.3.F.

3. Completed Application means an application which includes all materials and documents which are necessary to support the application and which has been accepted as complete by ERM.

4. Cone of Depression means an area of reduced water levels which results from the withdrawal of groundwater from a point of collective source such as a well, wellfield, de-watering site or quarry. The areal extent and depth of the depression is a function of the hydraulic properties of the aquifer, the pumpage rates and recharge rates.

5. Day means calendar day unless otherwise stated.

6. Designated Public Utility means that public utility which operates a well or wells for which the zones of influence include part or all of the property on which the nonresidential activity is located.

7. Domestic Sludge means a solid waste resulting from sewage, seepage, or food service operations, or any other such waste having similar characteristics. Domestic sludge includes sludge resulting from the treatment of domestic wastewater.

8. Domestic Wastewater means wastewater derived principally from dwellings, business buildings, institutions, and the like; sanitary wastewater; sewage.

9. Emergency Hazardous Situation occurs whenever there is an immediate and substantial danger to human health, safety, or welfare or to the environment.

10. Environmental Ordinance Appeals Board means that Board designated by the Board of County Commissioners of Palm Beach County to hear and render decisions on appeals

of final administrative determinations, and to conduct hearings and render decisions as required under applicable county environmental Ordinances or sections of the Unified Land Development Code.

11. ERM means the Palm Beach County Department of Environmental Resources Management.

12. Exfiltration System means any gallery, perforated or "leaky" pipe or similarly designed structure which is used to dispose of untreated stormwater by allowing the routed water to percolate by subsurface discharge directly or indirectly into the groundwater.

13. Facility means main structures, accessory structures and activities which store, handle, use or produce Regulated Substances. Where contiguous facilities exist and such facilities are separate in the nature of the businesses, they shall remain separate under this section.

14. Generic Substance List means those general categories of substances set forth in Appendix 9.3.A attached hereto and incorporated herein.

15. Groundwater means water that fills all the unblocked voids of underlying material below the ground surface, which is the upper limit of saturation, or water which is held in the unsaturated zone by capillarity.

16. Groundwater and Natural Resources Protection Board means that Board designated by the Board of County Commissioners of Palm Beach County, to hear alleged violations of this section and other state and local laws protecting the groundwater and natural resources of the County.

17. Laboratory means a designated area or areas used for testing, research, experimentation, quality control, or prototype construction, but not used for repair or maintenance activities (excluding laboratory equipment), the manufacturing of products for sale, or pilot plant testing.

18. Land Application means the application or disposal of effluents or sludges on, above, or into the surface of the ground through spray irrigation, land spreading, or other methods.

19. Nonresidential Activity means any activity which occurs in any building, structure or open area which is not used primarily as a private residence or dwelling.

20. One Foot Drawdown Contour means the locus of points around a well or wellfield where the free water elevation is lowered by one (1) foot due to a specified pumping rate of the well or wellfield.

21. Operating Permit means the permit required of certain activities under Section 9.3.F.

22. Percolation Pond means an artificial impoundment similar to a holding pond for which the design and operation provides for fluid losses through percolation or seepage.

23. Person. Any individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, owner, lessee, tenant or any other entity whatsoever or any combination of such jointly or severally.

24. Potable Water means water that is intended for drinking, culinary or domestic purposes, subject to compliance with County, State or Federal drinking water standards.

25. Public Utility means any privately-owned, municipally-owned, County-owned, special district-owned, or State-owned system providing water or wastewater service to the public which has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals daily for at least sixty (60) days of the year.

26. Regulated Substances means:

a. Those deleterious substances or contaminants, including degradation and interaction products which, because of quality, concentration, or physical, chemical (including ignitability, corrosivity, reactiveness and toxicity), or infectious characteristics, radioactivity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence (non-degradability) in nature, or any other characteristic, may cause significant harm to human health and environment (including surface and groundwater, plants, and animals).

b. Those substances set forth in, but not limited to, the lists, as amended from time to time, entitled Lists of Hazardous Wastes (40 CFR Part 261, Subpart D), 40 CFR, Part 261, Appendix VIII-Hazardous Constituents, and EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA (40 CFR 302, effective July 3, 1986); provided, however, that this section shall only apply whenever the aggregate sum of all quantities of any one Regulated Substance at a given facility/building at any one time exceeds five (5) gallons where said substance is a liquid, or twenty-five (25) pounds where said substance is a solid.

The section shall also apply if no single substance exceeds the above reference limits but the aggregate sum of all Regulated Substances present at one facility/building at any one time exceeds one hundred (100) gallons if said substances are liquids, or five hundred (500) pounds if said substances are solids.

Where Regulated Substances are dissolved in or mixed with other non-Regulated Substances, only the actual quantity of the Regulated Substance present shall be used to determine compliance with the provisions of this section.

Where a Regulated Substance is a liquid, the total volume of the regulated Substance present in a solution or mixture of said substance with other substances shall be determined by volume percent composition of the Regulated Substance, provided that the solution or mixture containing the Regulated

Substance does not itself have any of the characteristics described in Section 9.3.B.26.a. above.

27. Retention or Detention Pond means any pit, pond, or excavation excluding canals of conveyance which creates a body of water by virtue of its connection to groundwater, and which is intended to receive stormwater.

28. Spill means the unpermitted release or escape of a Regulated Substance, irrespective of the quantity thresholds in Section 9.3.B.26.b., directly or indirectly to soil, surface waters or groundwaters.

29. Utility means a public utility, power company or telephone company which serves the general public.

30. Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is to conduct groundwater from a source bed to the surface by pumping, natural flow or other method.

31. Wellfield means an area of land which contains one or more than one well for obtaining water.

32. Zones of Influence means zones delineated by iso-travel time contours and the one (1) foot drawdown contour within cones of depression of wells which obtain water from the unconfined or surficial aquifer system. These zones are calculated, based on the rate of movement of groundwaters in the vicinity of wells at a specified pumping rate.

33. Zones of Influence Maps means aerial photographs at scales determined by ERM showing the location on the ground of the outer limits of Zones of Influence for present and future public potable water supply wells and wellfields permitted for 100,000 gallons per day or more.

C. APPLICABILITY.

The provisions of this section shall be effective within the incorporated and unincorporated areas of Palm Beach County, Florida, and shall set restrictions, constraints and prohibitions to protect present and future public potable water supply wells and wellfields from degradation by contamination of deleterious substances.

1. Permit and license issuance. No building permit or occupational license for any nonresidential activity shall be issued by Palm Beach County or any city located within Palm Beach County that would allow development or construction in Zones One (1), Two (2), Three (3), or Four (4), that is contrary to the restrictions and provisions provided in this section. Permits or occupational licenses issued in violation of this section confirm no right or privilege on the grantee and such invalid permit or licenses will not vest rights.

2. **Effective date.** The requirements and provisions of this section shall apply immediately upon and after March 7, 1988 to all new nonresidential activities. An existing activity is one for which a building permit or occupational license had been issued by the appropriate jurisdiction prior to March 7, 1988 and which had not expired on or before March 7, 1988, or for which a completed building permit or occupational license application had been filed and accepted with the appropriate jurisdiction prior to March 7, 1988. All other activities shall be deemed "new".

3. **Time of review.** Any application for a building permit for a nonresidential development or residential development greater than twenty-five (25) units or nonresidential development subject to review by an advisory planning body and approval by the local governing authority or zoning board of appeals that includes property wholly or partially within Zone One (1), Two (2), Three (3), or Four (4), of a wellfield shall include requirements of ERM. These requirements shall be as follows:

   a. Notification by the local governing authority of the location of the property in Zone One (1), Two (2), Three (3), or Four (4) and notarized letter from applicant admitting acceptance of notification. Notification shall be prepared by ERM providing details of Zones, prohibitions, and measures required for compliance; or

   b. Submittal of application to ERM for notification.

4. **Certification of compliance.** Any application submitted for an occupational license for any use within Zone One (1), Two (2), Three (3), or Four (4) of an incorporated or unincorporated area shall require certification by ERM that the use meets the applicable requirements of this section. It shall be the duty of each local agency to screen all applications for Zone One (1), Two (2), Three (3), or Four (4) occupational licenses.

5. **Screening of Occupational License.** It shall be the duty of each local agency to screen all applications for Zone One (1), Two (2), Three (3) or Four (4) occupational licenses.

6. **Zone One (1) activities.** ERM shall provide a list to all local agencies of potentially prohibited operations in Zone One (1).

7. **Interdepartmental coordination.** Copies of building permits for residential uses containing more than twenty-five (25) units, all nonresidential projects, and all occupational licenses issued for Zone One (1), Two (2), Three (3), or Four (4) shall be submitted to ERM on a weekly basis, or upon issuance by the appropriate issuing authority.

D. **EXEMPTIONS.**

1. **General exemptions.** A general exemption application and an operating permit issued pursuant to the provisions of Sec. 9.3.E.3.(b) shall be filed with ERM for any nonresidential activity claiming a general exemption to these regulations under Sections 9.3.D.1.d.(1), 9.3.D.1.3.(2) and 9.3.D.1.3.(6). No new nonresidential facilities shall

be permitted into Zone One (1) after March 7, 1988 if the new nonresidential facility stores, handles, produces or uses any Regulated Substance.

a. **Application.** A general exemption application shall contain a concise statement detailing the circumstances which the applicant believes would entitle him or her to a general exemption pursuant to Sec. 9.3.D.1.

b. **Fee.** A Fee shall be required as established by the approved Fee Schedule.

c. **Procedure.** Within thirty (30) working days of receipt of an application for a general exemption, ERM shall inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then ERM shall provide to the applicant a written statement by certified mail or hand delivery requesting the additional information required. The applicant shall inform ERM within ten (10) working days of the date of the written statement of intent to either furnish the information or have the application processed as originally submitted. ERM shall have ninety (90) working days from the date that the sufficiency determination was rendered or the date of receipt of additional requested information to act upon the application.

d. **General exemption activities and criteria.**

(1) **Fire, Police, Emergency Medical Services and County Emergency Management Center Facilities.** Existing fire, police, emergency medical services and County emergency management center facilities are exempt from the Zone 1 prohibitions set forth in Sec. 9.3.E.3.a., provided that an operating permit for such uses is obtained pursuant to Sec. 9.3.F.2.a.

(2) **Utilities in Zone One (1).** Existing utilities as of July 25, 1991 shall be exempt, except for the maintenance and refueling of vehicles, from the Zone One (1) prohibitions set forth in Sec. 9.3.E.3.a, provided that an operating permit for such uses is obtained pursuant to Sec. 9.3.F.2.a.

(3) **Continuous transit.** The transportation of any Regulated Substance through Zones One (1), Two (2), Three (3) or Four (4) shall be exempt from the provisions of this section, provided that the transporting motor vehicle is in continuous transit. The transport of such substances through existing permanent pipelines is also exempt, provided that the currently authorized use or uses are not changed, and provided that leak detection and monitoring as approved by ERM are employed. No general exemption or operating permit application is required except that an operating permit is required to establish the leak detection and monitoring requirements for said existing pipelines. Any new pipelines constructed through Zones One (1), Two (2) or Three (3) and carrying

regulated substances shall be provided with secondary containment, leak detection and monitoring as approved by ERM.

(4) Vehicular and lawn maintenance fuel and lubricant use. The use in a vehicle or lawn maintenance equipment of any Regulated Substance solely as fuel in that vehicle or equipment fuel tank or as a lubricant in that vehicle or equipment shall be exempt from the provisions of this section. No general exemption or operating permit application is required.

(5) Application of pesticides, herbicides, fungicides, and rodenticides. The application of those Regulated Substances used as pesticides, herbicides, fungicides, and rodenticide in recreation, agriculture, pest control and aquatic weed control activities shall be exempt from the provisions of this section provided that:

(a) In all Zones, the application is in strict conformity with the use requirement as set forth in the substances EPA registries and as indicated on the containers in which the substances are sold;

(b) In all Zones, the application is in strict conformity with the requirements as set forth in Chapter 482 and 487, Fla. Stat., and Chapters 5E-2 and 5E-9, F.A.C.;

(c) In all Zones, the application of any of the pesticides, herbicides, fungicides, and rodenticide shall be noted in the records of the certified operator. Records shall be kept of the date and amount of these substances applied at each location and said records shall be available for inspection at reasonable times by ERM;

(d) In Zones One (1), Two (2), Three (3), or Four (4), the pesticides, herbicides, fungicides, and rodenticide shall not be handled during application in a quantity exceeding seven hundred (700) gallons of formulation; and

(e) All nonresidential applicators of pesticides, herbicides, fungicides, and rodenticide who apply those substances in Zones One (1), Two (2), Three (3), or Four (4) shall obtain an operating permit covering all application operations using these materials under one (1) permit and shall comply with all the requirements of Sec. 9.3.E.3.b.(2)(c)-(f).

(6) Retail/wholesale sales activities. Retail/wholesale sales establishments in Zone One (1) that store and handle Regulated Substances for resale

in their original unopened containers shall be exempt from the prohibition in Zone One (1), provided that those establishments obtain an operating permit pursuant to Sec. 9.3.E.2.a. Items in Secs. 9.3.E.3.b.(2)(g) and 9.3.E.3.b.(2)(h), certification by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida, and a bond or letter of credit as set forth in Sec. 9.3.F.2.d are not required for facilities in Zones One (1), Two (2) or Three (3), provided no individual container of Regulated Substances exceeds five (5) gallons, if liquid, or twenty-five (25) pounds, if solid.

(7) Office uses. Offices uses, except for the use of Regulated Substances for the maintenance and cleaning of office buildings, shall be exempt from the provisions of this section, and no general exemption or operating permit shall be required.

(8) Construction activities. The activities of constructing, repairing or maintaining any facility or improvement on lands within Zones One (1), Two (2), Three (3), or Four (4) shall be exempt from the provisions of this section, provided that all contractors, subcontractors, laborers, materialmen and their employees, when using, handling, storing or producing Regulated Substances in Zones One (1), Two (2), Three (3), or Four (4), use those applicable Best Management Practices set forth in Appendix 9.3.C., attached hereto and incorporated herein. No general exemption or operating permit applications are required.

(9) Activities Subject to Regulation Due to Accumulation of Waste Regulated Substances. Activities in Zone Two (2) or Three (3) which are subject to permitting requirements of the section shall obtain an Operating Permit pursuant to the provisions on Secs. 9.3.E.3.b or 9.3.E.3.c. Items in Secs. 9.3.E.3.b.(2)(g) and 9.3.E.3.b.(2)(h) and a bond or letter of credit as set forth in Sec. 9.3.F.2.d are not required, provided that all waste liquid Regulated Substances are secondarily contained according to the conditions described in Sec. 9.3.E.3.b.(2)(a) and are removed from the site on a regular schedule by a contracted hauler licensed by EPA or the State of Florida to handle the waste Regulated Substances. The accumulated waste Regulated Substances shall at no time exceed fifty-five (55) gallons if liquid or two hundred twenty (220) pounds if solid, and the accumulation time shall not exceed ninety (90) days. Records of removal and disposal of all waste Regulated Substances through the licensed hauler shall be maintained and made available for Department inspection at reasonable times. In addition, all other Regulated Substances shall not exceed the threshold quantities identified in the definition of "Regulated Substances". Failure to comply with any of these requirements shall subject the facility to the full permitting provisions for the applicable zone.

2. Special exemptions. An affected person in Zone One (1), Zone Two (2) may petition the Environmental Ordinance Appeals Board for a Special Exemption from the prohibitions and monitoring requirements set out in Secs. 9.3.E.3.a. or 9.3.E.3.b. Special exemptions for Zone One (1) are for existing nonresidential activities only. No new nonresidential activity shall be permitted in Zone One (1) after March 7, 1988 if the new nonresidential activity stores, handles, produces or uses any Regulated Substance.

a. Criteria. In order to obtain a special exemption, a person must demonstrate, by a preponderance of competent, substantial evidence, that:

(1) Special or unusual circumstances and adequate technology exists to isolate the facility or activity from the potable water supply; and

(2) In granting the special exemption, the Environmental Ordinance Appeals Board may prescribe any additional appropriate conditions and safeguards which are necessary to protect the wellfield.

b. Procedures. The following special exemption application and review procedures shall apply to activities claiming a special exemption with adequate technology to isolate the facility or activity from the potable water supply and protect the wellfield.

(1) Application. A special exemption application claiming special or unusual circumstances and adequate protection technology shall be filed with ERM, who shall then promptly notify the County Attorney's office that such an application has been filed. The application shall be signed by the applicant and Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

(2) Basis for application. The application shall contain a concise statement by the applicant detailing the circumstances that the applicant feels entitles the applicant to special exemption, pursuant to this section.

(3) Fee. A Fee shall be required as established by the approved Fee Schedule.

(4) Submittal requirements. The application for special exemption shall contain but not be limited to the following elements:

(a) Operating conditions. A description of the situation at the site requiring isolation from the wellfield, including:

1) A list of the Regulated Substances in use at the site;

2) A site plan of the facility including all storage, piping, dispensing, shipping, etc., facilities;

3) What operations at the facility involve Regulated Substances which must be isolated from the wellfields;

4) The location of all operations involving Regulated Substances.

5) A sampling and analysis of the groundwater on the site of the activity seeking a special exemption shall be performed to determine if any Regulated Substances are already present which constitute a threat to the water supply.

6) An analysis of the affected well showing whether or not such well is already contaminated by any Regulated Substances and the extent of such contamination.

7) A hydrogeologic assessment of the site which shall address, as a minimum, soil characteristics and ground water levels, directional flow, and quality.

(b) Technical components. A technical proposal to achieve the required isolation including:

1) Components to be used and their individual functions;

2) System tying the components together;

3) A discussion and documentation, such as published technical articles, substantiating the performance and reliability of the components individually and the system as a whole. If the system has not been field tested, a discussion and laboratory test documentation to substantiate the proposed performance and reliability of the system;

4) Details of the specific plans to install the system at the site.

(c) Testing procedures. If the proposed system does not have a proven history of successful in-field operation, it may still be proposed using proven components. A test plan for the system as installed shall be provided to prove that the proposed system works in the field.

(d) Backup detection. A technical proposal for backup detection of Regulated Substances that may elude the isolation system and escape to outside a perimeter to be established by ERM. Such proposal shall include emergency measures to be initiated in case of escape of Regulated Substances.

(e) Criteria for success. Site-specific, system performance criteria shall be proposed to ascertain the success of the system. Such criteria shall include but shall not be limited to:

1) Performance;

2) Reliability;

3) Level of maintenance;

4) Level of Sensitivity to Regulated Substances;

5) Effect of rain, flood, power failure or other natural disaster.

(f) Precautions in event of failure. The applicant shall provide information on the on-site availability of substance removal technologies sufficient to remediate any introduction of Regulated Substances into the water table at the site. Where water is removed from on-site wells during the remedial process a plan shall be proposed for the disposal of such water.

(g) Closure plan. A closure plan shall be provided in the event the system does not prove successful in the testing required by Sec. 9.3.D.2.b.(4)(c).

(h) Other information. Any other reasonable information deemed necessary by Department due to site-specific circumstances.

(5) Sufficiency review. Within thirty (30) working days of receipt of an application for special exemption, ERM shall inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then ERM shall provide to the applicant a written statement by certified mail or hand delivery requesting the required additional information. The applicant shall inform ERM within ten (10) working days of the date of the written statement of intent to either furnish the information or have the application denied. When the application contains sufficient information for a proper determination to be made, ERM shall notify

the County Attorneys's office that all documentation necessary to evaluate the special exemption has been received, and shall promptly transmit all such documentation to the County Attorney's office.

(6) Action on application. Any special exemption granted by the Environmental Ordinance Appeals Board shall be subject to the applicable conditions which apply to Zones One (1) and Two (2) and any other reasonable and necessary special conditions imposed by the Environmental Ordinance Appeals Board.

An operating permit shall be issued by ERM with the applicable conditions of Secs. 9.3.E.3.a and 9.3.E.3.b. and any other reasonable and necessary special conditions imposed by the Environmental Ordinance Appeals Board. Such special exemptions shall be subject to revocation or revision by ERM for violation of any condition of said special exemption by first issuing a written notice of intent to revoke or revise (certified mail return receipt requested or hand delivery). Upon revocation or revision, the activity will immediately be subject to the enforcement provisions of this section.

E. ZONES OF INFLUENCE.

1. Maps. The Zones of Influence Maps, developed as described in Sec. 9.3.E.1.b, are incorporated herein and made a part of this Code. These Maps shall be on file and maintained by ERM.

   a. Amendments. Any amendments, additions or deletions to said Maps shall be approved by the Board of County Commissioners of Palm Beach County following written notice to property owners within the area covered by the amendment, addition, or deletion, and after public hearing. Written notice as provided herein shall be given at least thirty (30) days prior to the public hearing on the amendment, addition or deletion. Said maps shall be provided to any agency requesting said maps.

   b. Basis. The Zones of Influence Maps are based upon travel time contours and one (1) foot drawdown contours. They are generated using a contaminant transport computer model that simulates pollutant movement using particles released around wells in an inverted head/velocity field. The head/velocity field is calculated by using finite difference computer modeling techniques that incorporate the effects of an extensive canal system and Year 2010 build out pumpage rates. The pumping rates were determined by first projecting population figures for the Year 2010 for each public utility service area and multiplying this by a per capita consumption rate determined by the SFWMD and by consultation with public utilities regarding wellfield expansion and development.

c. **Review.** The Zones of Influence Maps shall be reviewed at least on an annual basis. However, failure to conduct said review shall not affect the validity of the existing approved Maps. The basis for updating said Maps may include, but is not limited to, the following:

(1) Changes in the technical knowledge concerning the applicable aquifer.

(2) Changes in the pumping rate of wellfields.

(3) Wellfield reconfiguration.

(4) Designation of new wellfields.

d. **Boundaries.** The Zones of Influence indicated on the Zones of Influence Maps are as follows:

(1) **Zone One (1).** The land area situated between the well(s) and the thirty (30) day travel time contour.

(2) **Zone Two (2).** The land area situated between the thirty (30) day and the two hundred ten (210) day travel time contours.

(3) **Zone Three (3).** The land area situated between the two hundred ten (210) day and the five hundred (500) day travel time contours.

(4) **Zone Four (4).** The land area situated beyond the five hundred (500) day travel time contour and within the one (1) foot drawdown contour.

e. **Interpretation of boundaries.** In determining the location of properties and facilities within the zones depicted on the Zones of Influence Maps, the following rules shall apply:

(1) Properties located wholly within one (1) Zone reflected on the applicable Zones of Influence Maps shall be governed by the restrictions applicable to that Zone.

(2) To that the extent Sec. 9.3.E.3 does not apply, properties having parts lying within more than one (1) Zone as reflected on the applicable Zones of Influence Maps shall be governed by the restrictions applicable to the zone in which the part of the property is located.

(3) Where a travel time contour which delineates the boundary between two (2) Zones of Influence passes through a facility, the entire facility shall be considered to be in the more restrictive zone.

(4) Where the facility, or portion thereof, is overlapped by Zones of Influence of different wells or wellfields, the stricter zones shall apply.

f. **Reference raw water analyses to be completed for each well.** A reference set of raw water analyses shall be completed for each well for which a Zone of Influence Map has been established. Said analyses shall be completed within one hundred eighty-five (185) days after March 7, 1988, for existing wells. A copy of the analytical report shall be forwarded to ERM and the PBCPHU within fourteen (14) days of completion. For any new well, this set of analyses shall be completed prior to the release of the well into service by the PBCPHU and ERM. Said analyses shall address inorganic priority pollutants as listed in Appendix 9.3.D. and organic pollutants as listed in Chapter 17-550 F.A.C. and as shown in Appendix 9.3.D. The cost shall be borne by the utility. The analytical reports shall be prepared by a State of Florida certified laboratory, certified for the applicable analyses. Samples shall be taken by the State certified laboratory performing the analyses, or its authorized representative.

2. **Protection of future wellfields.** The prohibitions and restrictions set forth in this section and in regulations promulgated pursuant hereto shall apply to any sites officially designated by the Board of County Commissioners as future wellfields. Such prohibitions and restrictions shall become effective upon approval by the Board of County Commissioners of the Zones of Influence Maps for the designated future wellfield. Prior to final action by the Board of County Commissioners in designating a future wellfield or approving the Zones of Influence Maps for those wellfields, all property owners and discernable operating activities within the area affected shall receive written notice at least thirty (30) days prior to the proposed public hearing at which the action shall be considered.

3. **Prohibitions and restrictions.**

a. **Zone one (1).**

(1) **Prohibited activities.** The use, handling, production, and storage of Regulated Substances associated with nonresidential activities is prohibited in Zone One (1), except as provided under the general exemptions and special exemptions provisions of this section.

(2) **Closure of existing uses.** All existing nonresidential activities within Zone One (1) which store, handle, use or produce any Regulated Substances shall cease to do so within one (1) year from the date of notification under this section, except as provided in this section. The owners or operators of such activities within Zone One (1) shall be notified in writing, by certified mail, or hand delivery by May 7, 1988 of the requirement to cease the use, handling, storage, and production of Regulated Substances if the activity is claimed to be exempted under the provisions of this section.

A closure permit application, general exemption application or a special exemption application prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida

shall be submitted to ERM within one hundred and twenty (120) days receipt of the notice to cease. Within thirty (30) days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist.

Any nonresidential activity in Zone One (1) which is allowed to continue in accordance with the general exemption or special exemption provisions of this section shall obtain an operating permit, unless expressly not required by this section, which shall indicate the special conditions to be instituted and the dates on which such conditions shall be instituted. Such activities shall comply with all Zone Two (2) requirements unless otherwise provided herein. No expansions, modifications or alterations which would increase the storage, handling, use or production of Regulated Substances shall be permitted in Zone One (1). An owner or operator that is denied a special exemption shall be issued a closure permit as part of the denial process. Any operating permit application required herein shall be filed with the applications for general exemption or special exemption.

b. Zone Two (2).

(1) **Prohibited activities.** All nonresidential activities within Zone Two (2) which store, handle, use or produce any Regulated Substance are prohibited, unless they qualify as a general exemption, obtain a special exemption, or receive an operating permit from ERM.

(2) **Permit conditions.** An operating permit issued to any nonresidential activity within Zone Two (2) that stores, handles, uses or produces any Regulated Substance shall be subject to the following conditions:

(a) **Containment of regulated substances.** Leak-proof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any Regulated Substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by ERM. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to above-ground and underground storage areas. The containment devices and liquid collection systems shall be certified in the operating permit application by the Professional

Engineer or Professional Geologist registered or licensed in the State of Florida.

(b) **Emergency collection devices.** Vacuum suction devices, absorbent scavenger materials or other devices approved by ERM, shall be present on-site or available within two (2) hours (one hour in Zone One) by contract with a clean up company approved by ERM, in sufficient magnitude so as to control and collect the total quantity of Regulated Substances present. To the degree feasible, emergency containers shall be present and of such capacity as to hold the total quantity of Regulated Substances plus absorbent material. The presence of such emergency collection devices shall be certified in the operating permit application for existing activities. Such certification for new activities shall be provided to ERM prior to the presence of Regulated Substances on the site. Certification shall be provided by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

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

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

(e) **Proper and adequate maintenance of containment and emergency equipment.** Procedures shall be established for quarterly, in-house inspection and maintenance of containment and emergency equipment. Such procedure shall be in writing; a regular checklist and schedule of maintenance shall

be established; and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by ERM.

(f) **Reporting of spills.** Any spill of a Regulated Substance in excess of the non-aggregate quantity thresholds identified in the definition of "Regulated Substance" shall be reported by telephone to PBCPHU and designated public utility within one (1) hour, and to ERM within twenty-four (24) hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to ERM within fifteen (15) days of discovery of the spill.

(g) **Monitoring for Regulated Substances in the potable water well.** Arrangements shall be made with the designated public utility to establish a semi-annual schedule of raw water analysis unless sampling results indicate contamination, in which case ERM shall require an increased sampling schedule. The analysis shall be for all substances which are listed on the operating permit. The analytical reports shall be prepared by a State of Florida certified laboratory, certified for the applicable analyses. It shall be the responsibility of the designated public utility to provide for the sampling and analyses but the cost shall be borne by the permittee or those permittees on a pro-rata basis as to the same substances listed on the permits of those permittees in Zones of Influence of the subject well. Samples shall be taken by the State certified laboratory performing the analyses, or its authorized representative.

Semi-annual reports prepared by a State of Florida certified laboratory of the analyses for Regulated Substances shall be submitted to ERM for the purpose of determining the presence of Regulated Substances in each well for which a Zone of Influence Map has been established.

(h) **Monitoring for Regulated Substances in groundwater monitoring wells.** Groundwater monitoring well(s) shall be provided at the expense of the permittee in a manner, number and location approved by ERM. Except for existing wells found by ERM to be adequate for this provision, the required well or wells shall be installed by a State of Florida licensed water well contractor. Samples shall be taken by the State certified laboratory performing the analyses, or its authorized representative. Analytical reports prepared by a State of Florida certified laboratory of the quantity present in each

monitoring well of the Regulated Substances listed in the activity's operating permit shall be filed at least semi-annually, or more frequently, as determined by ERM, based upon site conditions and operations.

(i) **Alterations and expansion.** ERM shall be notified in writing prior to the expansion, alteration or modification of an activity holding an operating permit. Such expansion, alteration, or modification may result from increased square footage of production or storage capacity, or increased quantities of Regulated Substances, or changes in types of Regulated Substances beyond those square footages, quantities, and types upon which the permit was issued. Should a facility add new Regulated Substances which individually are below the non-aggregate limits identified in the definition of "Regulated Substance", it shall notify ERM on the annual basis of the types and quantities of such substances added and the location of the use, handling, storage, and production of said substances. Any such expansion, alteration or modification shall be in strict conformity with this section. Further, except as provided herein, any existing operating permit shall be amended to reflect the introduction of any new Regulated Substances resulting from the change. However, the introduction of any new Regulated Substance shall not prevent the revocation or revision of any existing operating permit if, in the opinion of ERM, such introduction substantially or materially modifies, alters or affects the conditions upon which the existing operating permit was granted or the ability to remain qualified as a general exemption, if applicable, or to continue to satisfy any conditions that have been imposed as part of a special exemption, if applicable. ERM shall notify the permittee in writing within sixty (60) days of receipt of the permittee's notice that ERM proposes to revoke or revise the permit and stating the grounds therefore.

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

(k) **Revocation or revision for spill.** Within thirty (30) days of acquiring knowledge of any spill of a Regulated Substance, ERM shall consider revocation or revision of the permit. In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or the degree of negligence, if any, associated with the spill, the extent to

which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

(3) Permits for existing uses. All existing non-residential activities in Zone Two (2) which use, handle, store, or produce Regulated Substances shall file an application for an operating permit or closure permit within ninety (90) days of the receipt of written notice from ERM. Said permit application shall be prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida, except for Closure or Transfer Permits as provided in Secs. 9.3.F.2.b or 9.3.I. Within thirty (30) days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within sixty (60) days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within one hundred eighty (180) days of the denial of the operating permit. All Regulated Substances and contaminated containers shall be disposed in a lawful and environmentally sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated Substances into the environment.

c. Zone three (3).

(1) Prohibited activities. All nonresidential activities within Zone Three (3) which store, handle, use or produce any Regulated Substance are prohibited, unless they qualify as a general exemption or receive an operating permit from ERM.

(2) Permit conditions. An operating permit issued to any nonresidential activity within Zone Three (3) that stores, handles, uses or produces any Regulated Substance shall be subject to the following conditions:

(a) Containment of regulated substances. Leak-proof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any Regulated Substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering

only after approval of the design by ERM. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to above-ground and underground storage areas. The containment devices and liquid collection systems shall be certified in the operating permit application by the Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

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

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

(d) **Proper and adequate regular maintenance of containment and emergency equipment.** Procedures shall be established for the quarterly in-house inspection and maintenance of containment and emergency equipment. Such procedure shall be in writing; a regular checklist and schedule of maintenance shall be established; and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by ERM.

(e) **Reporting of spills.** Any spill of a Regulated Substance in excess of the non-aggregate quantity thresholds identified in the definition of "Regulated Substance" shall be reported by telephone to the Palm Beach County Health Unit and designated public utility within one (1) hour, and to ERM within twenty-four (24) hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and

clean up the spill shall be submitted to ERM within fifteen (15) days of discovery of the spill.

(f) **Revocation or revision for spill.** Within thirty (30) days of acquiring knowledge of any spill of a Regulated Substance, ERM shall consider revocation or revision of the permit to comply with some or all the conditions applicable to Zone Two (2), as set forth in Sec. 9.3.F.3.b.(2)(a)-(j), in addition to the Zone Three (3) conditions of Sec. 9.3.F.3.c.(2)(a)-(e). In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or the degree of negligence, if any, associated with the spill, the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

(g) **Permit process.** Operating permits required by this section shall be applied for and processed in accordance with Sec. 9.3.E.3.b.(3) by filing an application for an operating permit or closure permit within ninety (90) days of the receipt of written notice from ERM. Said permit application shall be prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida. Within thirty (30) days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within sixty (60) days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within one hundred eighty (180) days of the denial of the operating permit. All Regulated Substances and contaminated containers shall be disposed in a lawful and environmentally sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated Substances into the environment.

d. **Zone four (4).**

(1) **Prohibited activities.** All nonresidential activities within Zone Four (4) which store, handle, use or produce any Regulated Substance are prohibited, unless they qualify as a general exemption or receive an operating permit from ERM.

(2) **Permit conditions.** An operating permit issued to any nonresidential activity within Zone Four (4) that stores, handles, uses or produces any Regulated Substance shall be subject to the following conditions:

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

(b) **Reporting of spills.** Any spill of a Regulated Substance in excess of the non-aggregate quantity thresholds identified in the definition of "Regulated Substance" shall be reported by telephone to PBCPHU and the designated public utility within one (1) hour, and to ERM within twenty-four (24) hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to ERM within fifteen (15) days of discovery of the spill.

(c) **Revocation or revision for spill.** Within thirty (30) days of acquiring knowledge of any spill of a Regulated Substance, ERM shall consider revocation or revision of the permit to comply with some or all the conditions applicable to Zone Two (2), as set forth in Sec. 9.3.E.3.b.(2)(a)-(j), in addition to those of Sec. 9.3.E.3.d.(2)(a),(b). In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or the degree of negligence, if any, associate with the spill, the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

(d) **Permit process.** Operating permits required by this section shall be applied for and processed by filing an application for an operating permit or closure permit within ninety (90) days of the receipt of written notice from ERM. Said permit application shall be prepared and signed by a Professional

Engineer or Professional Geologist registered or licensed in the State of Florida. However, a nonresidential activity in Zone Four (4) is not required to retain an engineer or geologist to prepare the operating permit if the revocation for spill provisions of this section do not apply. Within thirty (30) days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within sixty (60) days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within one hundred eighty (180) days of the denial and an application for a closure permit shall be filed with ERM within one hundred twenty (120) days of the denial of the operating permit. All Regulated Substances and contaminated containers shall be disposed in a lawful and environmental sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated Substances into the environment.

4. Other requirements and liabilities. A notice to cease, or a permit or exemption issued under this section shall not relieve the owner or operator of the obligation to comply with any other applicable federal, state, regional or local regulation, rule, ordinance or requirement. Nor shall said notice, permit, or exemption relieve any owner or operator of any liability for violation of such regulations, rules, ordinances or requirements.

5. Requirements for domestic wastewater and stormwater treatment.

a. Sanitary sewer mains. All new or replacement installations of sanitary sewer mains in Zone One (1) or Zone Two (2) of a public drinking water wellfield shall be constructed to force main standards. Standards for installation are shown in Appendix 9.3.E. and shall be enforced by PBCPHU through the permit process. For new wells placed in areas of existing sanitary sewers, the sewers in Zone One (1) and Two (2) must be pressure tested at each joint, grouted and sealed with proof of testing provided to the PBCPHU prior to release of the well for service.

b. Exfiltration systems. No new exfiltration system shall be constructed in Zone One (1) or Zone Two (2) of a public drinking water wellfield.

c. Retention/detention ponds. New retention or detention ponds located within wellfield zones shall comply with the criteria described in the SFWMD Management and Storage of Surface Waters Permit Information Manual IV. These criteria are enforced through the SFWMD permitting process.

d. Percolation ponds. New percolation ponds for domestic wastewater treatment located within wellfield zones shall comply with the requirements for separation from public drinking water wells set forth in Chapters 17-555 and 17-610, F.A.C., and enforced by DER and the PBCPHU.

e. Land application of domestic wastewater effluent. Land application of domestic effluent or sludge within wellfield zones shall comply with the requirements for separation from public drinking water wells as set forth in Chapters 17-555, 17-610 and 17-640, FAC and enforced by and DER and the PBCPHU.

f. Onsite sewage disposal systems. New onsite sewage disposal systems (septic tanks) located within wellfield zones shall comply with the requirements for maximum sewage loading and separation from public drinking water wells as set forth in Environmental Control Rule I and enforced by the PBCPHU.

6. Spill assessment and remediation. Upon discovery of a spill in a wellfield zone, a determination shall be made as to jurisdiction. ERM shall provide notification to the DER and PBCPHU including all available information pertinent to the spill. DER will be responsible for determination if the spill occurrence constitutes a Resource Conservation and Recovery Act (RCRA) regulated material as defined in Chapter 17-730, F.A.C. and Title 40 CFR Part 261. If determination is made that the spill occurrence involves a RCRA regulated material, FDER will assume the role as lead regulatory agency in assessment and remediation. ERM will assume the role as lead agency if determination reveals a non-RCRA regulated substance.

Upon issuance of an order by ERM, corrective action shall immediately be initiated by the responsible person. Failure to initiate corrective action shall be a violation of this section. Corrective action shall include any or all of the following:

a. Cessation of the discharge and initial control, containment and recovery of free-flowing, floating or standing pollutants;

b. Removal and disposal of contaminated soils, sediments, vegetation, containers, recovery and other contaminated materials in accordance with applicable Federal, State and local regulations;

c. Assessment of the horizontal and vertical extent of soil, sediment, surface water and groundwater contamination, as well as rate and direction of migration of the contaminants;

d. Remediation of contaminated soils, sediments, surface water and groundwater to preclude further migration of unacceptable levels of residual Regulated Substances into or through the surface water or groundwater environment.

ERM shall determine necessary, reasonable measures and time frames for corrective action. The corrective action shall be completed to the satisfaction

of ERM. Where State or Federal regulations establish procedures or cleanup levels for corrective action for particular discharges, the corrective action shall at a minimum comply with those procedures and cleanup levels. Completion of corrective action as specified by ERM shall not relieve the responsible person or persons of liability under any other applicable Federal, State or local regulation, rule, ordinance or requirement; nor shall it relieve the responsible person or persons of liability for corrective actions for conditions which were previously unknown to ERM, or which resulted from implementation of corrective action as required.

F. WELLFIELD PROTECTION (OPERATING AND CLOSURE PERMITS).

The following provisions provide the requirements and procedures for the issuance of operating and closure permits required by this section.

1. General.

a. An application which satisfies the requirements of the applicable Zone of Influence and Sec. 9.3.F.2 for Operating Permits and, if applicable, Sec. 9.3.D.1 for General Exemptions and Sec. 9.3.G.3 for Appeals, shall be approved and a permit issued. In addition to the failure to satisfy these requirements, ERM may deny a permit based on repeated violations of this section.

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

c. Permittees shall be required to pay annual renewal fees beginning October 1, 1990. Beginning October 1, 1990, all current and future permittees are subject to an annual renewal license fee as established by the approved Fee Schedule. Notification to ERM under Sec. 9.3.E.3.b.(2)(i) is due with the renewal fee.

d. ERM shall have the right to make inspections of facilities at reasonable times to determine compliance with this section.

e. All of the facilities owned and/or operated by one person when these structures and activities are located on contiguous parcels of property even where there are intervening public or private roads, may be covered under one (1) permit.

2. Applications.

a. Operating permit. All applications for operating permits shall, at the minimum, provide the following information:

(1) A list of all Regulated Substances and substances on the Generic Substance List which are to be stored, handled, used or produced in the nonresidential activity being permitted including their quantities.

(2) A detailed description of the nonresidential activities that involve the storage, handling, use or production of the Regulated Substances indicating the unit quantities in which the substances are contained or manipulated including lay out plans or drawings of the facility in which the activities will take place.

(3) A description of the containment, the emergency collection devices, containers and emergency plan that will be employed to comply with the restrictions required for Zone Two (2) and Three (3) as set forth above. For Zone Four (4) this particular documentation will only be required if a permit revision is required pursuant to Sec. 9.3.E.3.d.(2)(c).

(4) A description of the daily monitoring activities that have been or will be instituted to comply with the restrictions for Zone Two (2), Three (3), and Four (4) as set forth above in Sec. 9.3.E.3.b(2)(d).

(5) A description of the maintenance that will be provided for the containment facility, monitoring system and emergency equipment required to comply with the restrictions of Zone Two (2) and Three (3) as set forth above. For Zone Four (4) this particular documentation will be required if a permit revision is required pursuant to Sec. 9.3.E.3.d.(2)(c).

(6) A description of the groundwater monitoring wells that have been or will be installed, other pertinent well construction information, and the arrangements which have been made or which will be made for certified analyses for specified Regulated Substances. For Zones Three (3) and Four (4) this particular documentation will only be required for a revised operating permit as required under Secs. 9.3.E.3.c.(2)(f), 9.3.E.3.d.(2)(c), or 9.3.L.3.

(7) Evidence of arrangements made with the appropriate designated public utility for sampling analysis of the raw water from the potable water well. For Zones Three (3) and Four (4) this particular documentation will only be required for a revised operating permit as required under Secs. 9.3.E.3.c.(2)(f), 9.3.E.3.d.(2)(c), or 9.3.L.3.

(8) An agreement to indemnify and hold Palm Beach County harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the permit. The County shall provide reasonable notice to the permittee of any such claims. Operating permit that is required to be revised.

(9) The application for the operating permit shall be filed with ERM within ninety (90) days of receipt of written notification from ERM.

b. Closure permit. Closure permit applications shall contain the following information:

(1) A schedule of events to complete the closure of an activity that does or did store, handle, use, or produce Regulated Substances. As a minimum, the following actions shall be addressed:

(a) Disposition of all Regulated Substances and contaminated containers.

(b) Cleanup of the activity and environs to preclude leaching of unacceptable levels of residual Regulated Substances into the aquifer.

(c) Certification by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida that disposal and cleanup have been completed in a technically acceptable manner. The requirement for certification by a Professional Engineer or Geologist may be waived if the applicant provides evidence to ERM that all of the following items are applicable:

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

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

3) There is no evidence of spills permeating floors or environs.

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

5) There is no evidence of past contamination in the public drinking water well(s) associated with the facility in Zone 1.

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

(d) An appointment for an inspection by ERM.

(e) An agreement to indemnify and hold Palm Beach County harmless from any and all claims, liabilities, causes of action,

or damages arising out of the issuance of the permit. The County shall provide reasonable notice to the permittee of any such claims.

(2) The issue of well reconfiguration shall be evaluated by ERM and the affected public utility as an alternative to a closure permit during the permit application process. Should a utility notify ERM in writing that it intends to reconfigure a wellfield and said configuration no longer subjects a facility to Zone One (1) or Zone Two (2) requirements, ERM may issue an operating permit providing conditions under which said facility may continue to operate.

(3) The DER and the PBCPHU shall be advised in writing of each closure permit application.

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

d. **Bond required.** Except as provided in Sec. 9.3.F.2.d.(5), no permit herein required shall be issued unless there is filed at the time of application, except in the case of an application by a political subdivision or agency of the State, a cash bond, permit bond with a corporate surety, or letter of credit in the amount specified in Appendix 9.3.C. attached hereto and incorporated herein.

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

(2) The permittee shall reimburse Palm Beach County in accordance with Secs. 9.3.F.2.a.(8), 9.3.F.2.b.(1)(e) and 9.3.F.2.e for any and all expenses and costs that Palm Beach County incurs as a result of the permittee failing to comply with the conditions and requirements of this section.

(3) Before a bond or letter of credit is accepted by ERM as being in compliance with this section, the bond or letter of credit shall be reviewed and approved by the Palm Beach County Attorney's Office. A corporate bond shall be executed by a corporation authorized to do business in the State of Florida as a Surety. A cash bond shall be deposited with ERM, who shall give receipt therefore.

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

(5) No bond or letter of credit is required for issuance of a permit for the following:

(a) Pesticide applicators, unless the pest control facility is located in Wellfield Zone One (1), Two (2), or Three (3).

(b) Closure of a facility, provided that the conditions listed in Sec. 9.3.F.2.b.(1)(c) for waiver of certification by an engineer or geologist are applicable.

(c) A facility in Zone Four (4), unless ERM has determined that a revision of the permit is appropriate under conditions described in Secs. 9.3.E.3.d.(2)(c) or 9.3.L.3.

(d) Retail/wholesale activities which meet the conditions for this exemption set forth in Section 9.3.D.1.d.(6).

(e) Activities subject to regulation due to the accumulation of waste Regulated Substances, provided that they comply with the conditions for this exemption set forth in Sec. 9.3.D.1.d.(9).

e. Clean-up and reimbursement. Any person subject to regulation under this section shall be liable with respect to Regulated Substances emanating on or from the person's property for all costs of removal or remedial action incurred by Palm Beach County and damages for injury to, destruction of, or loss of natural resources, including the reasonable cost of assessing such injury, destruction or loss resulting from the release or threatened release of a Regulated Substances as defined in this section. Such removal or remedial action by Palm Beach County may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, containment, and clean-up or disposal of Regulated Substances resulting from the spilling, leaking, pumping, pouring, emitting or dumping of any Regulated Substance or material which creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

G. APPEALS.

1. **Matters for review and time for filing.** Any person may appeal to the Environmental Ordinance Appeals Board for the following reasons:

   a. To appeal ERM's permit conditions, denial of a permit, general exemption or non-disclosure of a trade secret.

   b. To appeal an intent to revoke or revise an Operating permit and a General or special exemption.

   c. To request a special exemption.

2. **Time for filing.** Written petitions for review shall be filed with the Clerk of the County Attorney's Office within twenty (20) days of the date upon which the petitioner receives notice of ERM's actions with respect to Sec. 9.3.G.1.a or intended action with respect to Sec. 9.3.G.1.b. Failure to file within such time shall constitute a waiver of the person's right of review by the Environmental Ordinance Appeals Board. The filing of a petition authorized by this section shall stay all proceedings with respect to all matters that are contained in the petition until there is a final decision of the Environmental Ordinance Appeals Board.

3. **Review.** The decision of the Environmental Ordinance Appeals Board shall be final administrative action on behalf of ERM and Palm Beach County. Any person who is a party to the proceeding before the Environmental Ordinance Appeals Board may appeal such action by filing a petition for writ of certiori in the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida.

H. PETITION FOR COMPENSATION.

Parties affected by the requirements of this section may petition the Board of County Commissioners for a determination of the effect of said requirements on those activities and the issue of compensation.

1. **Filing.** A petition for compensation shall be filed with ERM.

2. **Contents of petition.** A petition for compensation shall contain, as applicable, the following:

   a. A copy of the closure permit required by this section or the required operating permit showing the change in operation.

   b. An analysis of the need to cease, move, or change operations including a summary of alternatives investigated and estimated costs of those alternatives.

   c. A list of all previously-issued notices of violation by ERM, Department of Environmental Regulation or the Environmental Protection Agency regarding use

of Regulated Substances including a description of any corrective action taken or pending.

d. Detailed specification of the amount for which compensation is being requested.

e. ERM shall review all petitions for compensation and make recommendations to the Board of County Commissioners regarding the reasonableness of any amounts requested by the petitioner, whether the requested compensation consists of amounts greater than the cost of any reasonable facility/operation modifications and whether the facility may potentially qualify for a special exemption. Based upon such recommendations, the Board of County Commissioners may deny such petition.

3. **Hearing on petition.** As soon as practicable after submission of a petition for compensation, but no later than ninety (90) days, by an owner or operator of an activity, the Board of County Commissioners shall hold a hearing to determine the eligibility of the activity for compensation pursuant to this section. Petitioner shall be given written notice by certified mail or hand delivery of such hearing at least thirty (30) days prior to the hearing. Formal Rules of Evidence shall not apply to such hearing, but fundamental due process shall be observed and shall govern the proceedings. Petitioner and the County shall have the right to:

a. Call and examine witnesses;

b. Introduce exhibits;

c. Cross-examine witnesses on any relevant matter;

d. Rebut the evidence; and

e. Be represented by Counsel.

4. **Review and evaluation criteria.**

a. **Cessation or move.** In determining whether the petitioner is eligible for compensation for cessation or moving, the Board of County Commissioners shall consider:

(1) Whether a reasonable, cost effective alternative to cessation or moving of operations exists for complying with this section, including reconfiguring of the wellfield. Applicant, with the cooperation of ERM and the affected public utility, shall address the issue of reconfiguration;

(2) Whether the requirements of this section were the sole reason for cessation of the operation;

(3) Past environmental record;

(4) Efforts to mitigate financial impact of this section and these corresponding regulations.

b. Change in operations. In deciding whether a petitioner is eligible for compensation for a change in operations, the Board of County Commissioners shall consider:

(1) Whether the proposed change is a reasonable, cost effective method for complying with this section and

(2) Whether the requirements of this section were the sole reason for the change in the operation.

5. Classes of impact for which compensation may be granted.

a. Actual reasonable relocation expenses.

(1) The owner or operator of an affected activity may be paid the actual reasonable cost of a relocation within Palm Beach County. Such amount to include the cost of:

(a) dismantling operation;

(b) actual moving;

(c) reassembling equipment;

(d) installation of equipment;

(e) internal connection of utilities to equipment;

(f) minor modification of site to accommodate operation, specifically excluding structural changes to the building or paving and drainage requirements at the site;

(g) the additional costs which would have to be incurred to move the activity due to changed circumstances or applicable laws, ordinances or regulations;

(h) any losses caused by the necessity of terminating a lease, such compensation not to exceed three (3) months' rent. Landlord and tenant are required to make a bona fide effort to mitigate this loss. This compensation shall be paid to either the landlord or the tenant, to be decided by agreement between the landlord and tenant.

(2) Documentation of costs. The eligible costs for actual reasonable relocation expenses shall be supported by two (2) itemized and sealed bids and a detailed listing of the claimed items. The amount to be paid shall not exceed the lower of the two (2) bids. In order to verify such information, ERM shall have the right to enter the activity's premises at reasonable times. Such bids and detailed listing of the cost shall be verified by ERM.

(3) Self-moves. In the case of a self-move the owner of a relocated activity may be paid the lower of two (2) sealed and itemized bids from licensed moving companies based on a detailed listing of the cost.

b. Actual reasonable modification of operation expenses. The owner or operator of an affected activity may be paid the actual reasonable expense to modify the operation of the activity in order to comply with this section. Such amount to include cost of:

(1) modification of machinery;

(2) dismantling and moving unusable machinery;

(3) unsalvageable inventory per Sec. 9.3.H.5.c;

(4) moving equipment out of a Zone One (1) on the activity's property per Sec. 9.3.H.5.a.

c. Actual direct losses of tangible personal property. Actual direct losses of tangible personal property are allowed when a person closes or relocates an activity. Payment may only be made after a diligent effort is made by the owner to sell the item(s) involved.

(1) If the activity is to be re-established and an item of property to be used therewith is not moved but promptly replaced with a comparable item at the new site, reimbursement shall be either:

(a) Replacement cost, taking into account depreciation, less the proceeds of the sale. Present value based on accepted standards in the related business community may be substituted for net proceeds of a sale where applicable, or

(b) Estimated cost of moving the item to the replacement site within the geographic boundaries of Palm Beach County.

(2) If a process at the activity is being discontinued or an existing item is not to be replaced in a re-established business, payment will be either:

(a) The difference between fair market value as evidenced by two (2) written appraisals of the item for continued use at its prior location less its net proceeds at the sale, or

(b) The estimated cost of moving the item to the replacement site within the geographic boundaries of Palm Beach County.

(3) If a sale is not effected because no offer is received and the item is abandoned, payment for the loss may be its fair market value for continued use at its existing location plus the costs of the attempted sale, less the equipment's salvage value.

d. **In lieu of actual moving expenses.** In lieu of the payments described in Secs. 9.3.H.5.a, 9.3.H.5.b. and 9.3.H.5.c, an owner of a discontinued activity may be eligible to receive a payment equal to seventy-five (75) percent of the estimated reasonable cost of moving the activity within Palm Beach County, except that such payment shall not be more than the lower of two (2) sealed and itemized bids, provided the following requirements are met:

(1) For the owner of an affected activity to be entitled to this payment, the County or its designee must determine that the business cannot be relocated without a substantial loss of its existing patronage. Such determination shall be made by the County or its designee only after consideration of all pertinent circumstances, including but not limited to the following factors:

(a) The type of business conducted by the displaced activity.

(b) The nature of the clientele of the displaced activity.

(c) The relative importance of the present location to the displaced activity.

(d) The additional costs which would have to be incurred to move the activity due to changed circumstances or applicable laws, ordinances, or regulations.

(2) For the owner or operator of an affected activity to be entitled to his or her payment, information must be provided to support the estimated moving costs. Such proof shall consist of two (2) sealed bids from licensed moving companies based on a detailed inventory of the items which would be moved.

e. **Exclusions on moving expenses and losses.** The following expenses are considered ineligible for payment as "actual" moving expenses:

(1) Additional expenses incurred because of moving to and living in a new location including search cost for finding a new dwelling.

(2) Cost of moving structures, improvements or other real property in which the displaced activity reserved ownership.

(3) Significant changes in building structure but not including minor electrical, plumbing or carpentry work.

(4) Cost of improvement to activity made after such activity was on notice that it is affected by this section and would have to cease or alter an operation in Zone One.

(5) Interest on loans to cover moving expenses.

(6) Loss of goodwill.

(7) Loss of business or profits or both,

(8) Loss of trained employees,

(9) Cost of preparing the petition for compensation.

f. Payment and release of obligation. Palm Beach County shall disperse eighty-five (85) percent of the compensation to be paid as determined by the Board of County Commissioners in advance of any move or change of operation. Palm Beach County shall retain fifteen (15) percent of the monies authorized as compensation for economic impact of this section until such time as the affected activity has carried out the procedures outlined in its petition for compensation and provides evidence of such expenditures. Upon receipt of payment of compensation as provided in this section, the recipient shall execute a release in favor of Palm Beach County from any further obligation to the recipient with regard to the economic impact of this section on the recipient or activity.

I. TRANSFERS AND CHANGES IN OWNERSHIP.

In the event, there is a change of ownership, a new lease, or an assignment of a lease, a sublease or any other change in regard to the person conducting the operation regulated, ERM shall be notified and upon payment of the appropriate fee and completion of processing of an application by ERM, the Wellfield Protection operating permit shall be transferred.

J. TRADE SECRETS.

ERM shall not disclose any trade secrets of the applicant or permittee that are exempted from such disclosure by Federal or State law; provided, however, the burden shall be on the applicant or permittee to demonstrate entitlement to such nondisclosure. Decisions by ERM as to such entitlement shall be subject to challenge by the applicant or permittee by filing a petition with the Environmental Ordinance Appeals Board pursuant to Appeals provisions of this section.

K. FEES.

1. Filing fee. All applicants for a wellfield protection operating or closure permit shall pay a non-refundable filing fee as established by the approved Fee Schedule. The fee shall be provided at the time of acceptance of the permit application.

2. Wellfield protection operating permit fee. The fee for a wellfield operating permit including any permit obtained pursuant to the general exemptions set forth in Sec. 9.3.D.1 of this section as established by the approved Fee Schedule. The operating fee shall be used to defray the cost of administering this section.

3. Closure permit fee. The fee for a closure permit under this regulation shall be one-half (1/2) of the fee for the wellfield protection operating permit as established by the approved Fee Schedule.

4. Permit transfer fee. The fee for transfer of an operating permit or closure permit shall be as established by the approved Fee Schedule and incorporated herein to defray the cost of processing the transfer. Application for Transfer of Permit is to be made within sixty (60) days of transfer of ownership of the activity.

5. Special exemption fee. A Fee shall be required for any person seeking a special exemption as established by the approved Fee Schedule.

6. General exemption fee. A Fee shall be required for any person seeking a general exemption as established by the approved Fee Schedule.

7. Annual renewal license fee. The fee for an annual renewal license as established by the approved Fee Schedule, shall be used to defray the cost of administering this section. Beginning October 2, 1990, all permittees shall pay an annual permit renewal fee for each permitted facility.

8. Late fee. A late fee as established by the approved Fee Schedule, shall be paid to ERM if the application for permit or renewal is late.

L. REVOCATION AND REVISION OF PERMITS AND EXEMPTIONS.

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

   a. Has failed or refused to comply with any of the provisions of this section, including but not limited to permit conditions and bond requirements of Section 9.3.F.2.d. herein; or

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

   c. Has failed to submit operational reports or other information required by this section; or

   d. Has refused lawful inspection under Sec. 9.3.F.1.d; or

   e. Is subject to revocation under Secs. 9.3.E.3.b.(2)(k), 9.3.E.3.c.(2)(f), 9.3.E.3.d.(2)(c), or 9.3.L.3

2. **Revision.** ERM may revise any permit pursuant to Secs. 9.3.E.3.b.(2)(k), 9.3.E.3.c.(2)(f), or 9.3.E.3.d.(2)(c) first issuing a written notice of intent to revise (certified mail return receipt requested, or hand delivery).

3. **Spills.** In addition to the provisions of Secs. 9.3.E.3.b.(2)(k), 9.3.E.3.c.(2)(f), or 9.3.E.3.d.(2)(c), within thirty (30) days of acquiring knowledge of any spill of a Regulated Substance in a wellfield zone, ERM shall consider revocation or revision of the permit. Upon such consideration, ERM may issue a notice of intent to revoke or revise, which shall be subject to the appeal provisions of this section, or elect not to issue such notice. In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or degree of negligence, if any, associated with this spill, and the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

4. **Revocation of exemptions.** For any revocation or revision by ERM of a special exemption or general exemption that requires an operating permit as provided under the terms of this section, ERM shall issue a notice of intent to revoke or revise which shall contain the intent to revoke or revise both the applicable exemption and the accompanying operating permit.

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

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

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

c. Location of the spill, if any.

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

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

6. Appeals. Failure of permittee to file a petition in accordance with the appeal provisions of this section shall render the proposed revocation or revision final and in full force and effect.

7. Other remedies. Nothing in this section shall preclude or be deemed a condition precedent to ERM seeking a temporary or permanent injunction.

M. VIOLATIONS, ENFORCEMENT AND PENALTIES.

Failure to comply with the requirements of this section or any permit, exemption, or approval granted or authorized hereunder shall constitute a violation of this section. Violations of the provisions of this section shall upon conviction, be punished by a fine not to exceed five hundred dollars ($500) per violation per day or by imprisonment in the county jail not to exceed sixty (60) days, or by both fine and imprisonment pursuant to the provisions of Section 125.69, Florida Statutes. Such violations may be deemed a separate offense for each day during any portion of which any violation is committed or continued. In addition to the sanctions contained herein, the County may 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. It is the purpose of this section to provide additional cumulative remedies.

N. GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD.

The Groundwater and Natural Resources Protection Board shall hear violations of this section if there has been a failure to correct a violation or if the same violation has been repeated. Violations of this section may be referred by ERM to the Groundwater and Natural Resources Protection Board for corrective actions and civil penalties.

O. PALM BEACH COUNTY POLLUTION RECOVERY TRUST FUND.

Funds collected pursuant to administrative penalties levied by the Groundwater and Natural Resources Protection Board for violations of this section shall be deposited in the Palm Beach County Pollution Recovery Trust Fund.

Appendix 9.3.A.

Generic Substances List

Acid and basic cleaning solutions
Antifreeze and coolants
Arsenic and arsenic compounds
Bleaches, Peroxides
Brake and transmission fluids
Brine solution
Casting and Foundry chemicals
Caulking agents
Cleaning solvents
Corrosion and rust prevention solutions
Cutting fluids
Degreasing and parts cleaning solvents
Disinfectants
Electroplating solutions
Explosives
Fertilizers
Fire Extinguishing chemicals
Food processing wastes
Formaldehyde
Fuels and additives
Glues, adhesives and resins
Greases
Hazardous waste
Hydraulic fluid
Indicators
Industrial and commercial janitorial supplies
Industrial process chemicals
Industrial sludges and stillbottoms
Inks, printing and photocopying chemicals
Laboratory chemicals
Liquid storage batteries
Medical, pharmaceutical, dental, veterinary and hospital solutions
Mercury and mercury compounds
Metals finishing solutions
Oils
Paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds
Painting solvents
PCB's
Pesticides and herbicides
Plastic resins, plasticizer and catalysts
Photo development chemicals
Poisons

Appendix 9.3.A.

Generic Substances List (cont'd)

Polishes
Pool chemicals
Processed dust and particulatesRadioactive sources
Reagents and standards
Refrigerants
Roofing chemicals and sealers
Sanitizers, disinfectants, bactericides and algaecides
Soaps, detergents and surfactants
Solders and fluxes
Stripping compounds
Tanning industry chemicals
Transformer and capacitor oils /fluids
Waste oils and antifreeze
Water and wastewater treatment chemicals

Note: Substances in this table may be adjusted by ERM.

Appendix 9.3.B.

Operating and Closure Permit Bonds*

	Zone 1	Zone 2	Zone 3
Cash bond	$20,000	$10,000	$5,000
Permit Bond With Corporate Surety	$20,000	$10,000	$5,000
Letter of Credit	$20,000	$10,000	$5,000

* Note: Amounts reflected in this table are for each Operating and Closure Permit issued and may be adjusted by ERM.

Appendix 9.3.C.

"Best Management Practices" for the Construction Industry

A. The general Contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for the handling of any Regulated Substances. For instance, handling Regulated Substances in the proximity of water bodies or wetlands may be improper.

B. If any regulated substances are stored on the construction site during the construction process, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. Any storage container of 55 gallons, or 440 pounds, or more containing Regulated Substances shall have constructed below it an impervious containment system constructed of materials of sufficient thickness, density and composition that will prevent the discharge to the land, groundwaters, or surface waters, of any pollutant which may emanate from said storage container or containers. Each containment system shall be able to contain 150% of the contents of all storage containers above the containment system.

C. Each contractor shall familiarize him/herself with the manufacturer's safety data sheet supplied with each material containing a Regulated Substance and shall be familiar with procedures required to contain and clean up any releases of the Regulated Substance. Any tools or equipment necessary to accomplish same shall be available in case of a release.

D Upon completion of construction, all unused and waste Regulated Substances and containment systems shall be removed from the construction site by the responsible contractor and shall be disposed of in a proper manner as prescribed by law.

Appendix 9.3.D.

ORGANIC PRIORITY POLLUTANTS

endrin
lindane (g-BHC)
methoxychlor
toxaphene
2, 4-D
2, 4, 5-TP
bromodichloromethane
dibromochloromethane
bromoform
chloroformm

trichloroethene
tetrachlorethene
carbon tetrachloride
vinyl chloride
1, 1, 1-trichloethane
1, 2-dichloroethane
benzene
ethylene dibromide
p-chlorobenzene
1, 1-dichloroethene
styrene
m-dichlorobenzene
o-dichlorobenzene
1, 2-dibromo-3-chloropropane (DBCP)
1, 1, 1, 2-tetrachloroethane
1, 1, 2, 2-tetrachloroethane
methyl tert-butyl-ether (MTBE)
1, 1-dichloropropene
o-chlorotoluene

aldrin
chloradane
dieldrin
heptachlor
aldicarb
aldicarb sulfoxide
aldicarb sulfone
dalapon
carbofuran

bromobenzene
bromomethane
chlorobenzene
chloroethane
p-chlorotoluene
chloromethane
dibromomethane
dichlorodifluoromethane
1,1-dichloroethane
trans-1, 3-dichloropropene
cis-1, 2-dichloroethane
1, 2-dichloropropane
1, 3-dichloropropane
2, 2-dichloropropane
cis-1, 3-dichloropropane
ethylbenzene
methylene chloride
1, 1, 2-trichloroethane
trichlorofluoromethane
1, 2, 3-trichloropropane
toluene
m-xylene
o-xylene
p-xylene
bis(2-ethylhexyl) phthalate
butyl benzyl phthalate
di-n-butylphthalate
diethylphthalate
dimethylphthalate
2, 2-dinitrotoluene
dioctylphthalate
hexachlorocyclopentadiene
isophorone
2, 3, 7, 8-tetrachloridibenzo-p-dioxin
1, 2, 4-trichlorobenzene
PCB-1016
PCB 1221
PCB-1232
PCB-1242
PCB-1248

Appendix 9.3.D. (cont'd)

oxymyl	RCB-1254
simizine	PCB-1260
atrazine	
picloram	2-chlorophenol
dinoseb	2-methyl - 4, 6-dinitrophenol
alachlor	phenol
metolachlor	2, 4, 6-trichlorophenol
dicamba	
pentachlorophenol	

INORGANIC PRIORITY POLLUTANTS

Mercury	Lead
Cadmium	Arsenic
Chromium	Selenium
Nickel	Cyanide

Note: Parameters reflected in this table may be adjusted by ERM.

Appendix 9.3.E.

MINIMUM STANDARDS FOR SEWER PIPE FITTINGS, COATINGS AND LEAKAGE TESTING

A. Ductile Iron Pipe and Fittings for Gravity Sewer and Force Main Application:

1. Ductile iron pipe shall conform to the requirements of ANSI/AWWA C151/A21.52-86 unless otherwise noted on the plans. The pipe shall be Class 50 thickness for pipe 6 in. or larger in size and Class 51 for pipe smaller than 6 in. Glands for mechanical joints shall be of ductile iron or cast iron.

2. Fittings shall conform to the requirements of ANSI/AWWA C110/A21.10-87. Fittings 12 in. and smaller shall have a 250 psi minimum working pressure.

3. Flanged ductile iron pipe shall be Class 53. Flanged ductile iron pipe and fittings shall have threaded flanges, unless otherwise noted on the drawings, and shall conform to ANSI/AWWA C115/A21.15-83. All flanges shall be Class 1560, ANSI B16.5. All above grades flanges shall be flat faced unless they are mating up to existing, or otherwise, specified, raised flanges. All gaskets shall be full faced 1/8" red rubber.

4. Joints shall conform to the requirements of ANSI/AWWA C111/A21.11-85.

B. Polyvinyl Chloride Pipe (PVC) and Fittings for Gravity and Sewer Force Main Applications:

1. Gasketed Joint Pipe:

a. Pipe 4 in. or larger in diameter shall conform to the requirements as set forth in AWWA C900-81 with dimension ration DR 18. Provisions must be made for contraction and expansion at each joint, or with a rubber ring and an integral bell as part of each joint, or by a rubber ring sealed coupling. Clean, reworked material generated from the manufacturer's own pipe production may be used. Fittings shall be cast or ductile iron. Pipe shall have cast iron pipe equivalent outside dimensions.

b. Pipe smaller than 4 in. in diameter shall conform to Commercial Standard CS 256 and ASTM D-22141. Provisions shall be made for contraction and expansion at each joint with a rubber ring, and an integral bell as part of each joint, or by a rubber ring sealed coupling. Pipe shall be made from SOR 21, 200 psi clean, virgin NSF approved Type I, Grade 1 PBC conforming to ASTM D-1784. Clean reworked material generated from the manufacturer's own pipe production may be used. Fittings for pipe smaller than 4 inch in diameter shall be PVC.

C. Coatings: The lining material for ductile iron pipe and fittings shall be virgin polyethylene complying with ANSI/AWWA D1248, compounded with an inert filler and with sufficient carbon black to resist ultraviolet

rays during above ground storage of the pipe and fittings. The polyethylene shall be bonded to the interior of the pipe or fitting by heat.

D. Leakage Tests: The test shall be of two (2) hour duration. During the test, the pipe being tested shall be maintained at a pressure of not less than 150 psi. Leakage is defined as the quantity of water added to the pipe being tested during the test period. No pipe installation will be accepted if the leakage exceeds the quantities specified in AWWA C-600, Section 4.2. No more than 500 feet of gravity sewer main or 1000 feet of force main shall be tested at one time.

E. Manholes: Manholes shall be precast and coated with an inert impervious material. Manhole inlets and outlets shall be tightly sealed around the sewer pipe and coated to prevent leakage.

SEC. 9.4. WETLANDS PROTECTION

A. PURPOSE AND INTENT.

1. It is the purpose and intent of this section to maintain the functions and values provided by wetlands and deep-water habitats so that there will be no net loss of the functions and values due to development or other activities.

B. DEFINITIONS.

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

1. Alteration means any dredging, filling, cutting, drainage, or flooding of a jurisdictional wetland.

2. Applicant means any person or entity requiring a wetland alteration permit.

3. Buffer means an upland area intended to protect wetlands from dredge, fill and/or construction activities on adjacent wetlands.

4. Cambium means a layer of cells in the stems and roots of vascular plants that gives rise to phloem and xylem.

5. Commercial marinas means those facilities providing boat storage to persons other than residents of the immediately adjacent uplands, or those facilities providing for boat maintenance or repair.

6. C.Y. means Cubic Yards.

7. Creation means a human activity which brings a wetland into existence at a site where it does not currently occur.

8. Day means calendar day unless otherwise stated.

9. Dock means a boat mooring facility which has no more than ten (10) boat slips, and which does not provide a fuel facility, sewage pump-out station, or commerical land-to-water boat hoist.

10. Dredging means any disruption or displacement of wetland substrate or bottom sediments or contours. It also means the excavation or creation of a water body which is or will be connected to jurisdictional wetlands as defined in Section 9.4.B.18.

11. Enhancement means a human activity which increases one or more natural functions of an existing wetland.

12. ERM means the Palm Beach County Department of Environmental Resources Management.

13. Filling means the placement of any material in, on, or over a jurisdictional wetland.

14. Freeze damaged mangroves means those mangroves which have suffered freeze damage but evidence of life still remains, such as green leaves. These mangroves would be characterized by having dead material on the ends of some of their branches or dead material on one side of the tree. In all cases freeze damaged mangroves will appear to still have a percentage of live material in their composition.

15. Freeze killed mangroves means those mangroves that have suffered severe freeze damage, such that by October 1, following the last freeze they show no sign of recuperation such as new leaf or branch growth or any evidence of live cambium.

16. Functions means the roles wetlands serve, including but not limited to flood storage, flood conveyance, ground water recharge and discharge, erosion control, wave attenuation, water quality enhancement and protection, nutrient removal, food chain support, wildlife habitat, breeding and habitat grounds for fishery species, and recreational values.

17. In kind means the creation or enhancement of a wetland with vegetation and functions as those of an identified wetland.

18. Jurisdictional wetland means any wetland as defined in accordance with the provisions of Section 9.4.E.

19. Mangrove means any specimen of the species Avicennia germinans (black mangrove), Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove), or Conocarpus erectus (buttonwood).

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

21. Marinas means those mooring facilities providing for greater than ten (10) boat slips or any facility providing a fuel facility, sewage pump-out station, or commercial land-to-water boat hoist.

22. Mitigation means the compensation for the loss of wetland acreage, value and functions by the creation of new wetlands or the enhancement of existing wetlands.

23. MHW means Mean High Water.

24. MLW means Meal Low Water.

25. OHW means Ordinary High Water.

26. OLW means Ordinary Low Water.

27. Pneumatophore means the aerial root structure from the species Avicennia germinans (black mangrove) or Laguncularia racemosa (white mangrove).

28. Prop root means the structures originating below the lowest limbs of the red mangrove that are also known as stilt roots.

29. Seagrasses means those submerged beds of the genera Halophila, Syringodium, Halodule, Thalassia, and/or the green algae Caulerpa spp.

30. Wetland means any persistent and/or intermittent water body or area characterized by the dominance of those submerged and/or transitional wetland species listed in Chapter 17-301, Florida Administrative Code, and located within Palm Beach County including up to three (3) statute miles directly offshore of Palm Beach County. Dominance shall be defined in accordance with Florida Administrative Code Rule 17-301.200 and shall be determined in the appropriate plant stratum (canopy, subcanopy, or ground cover) as outlined in Florida Administrative Code Rule 17-301.400.

C. APPLICABILITY.

1. This section shall be known as the "Palm Beach County Wetlands Protection section."

2. All provisions of this section shall be effective within the unincorporated and incorporated areas of Palm Beach County, Florida, and shall set restrictions, constraints and requirements to preserve and protect wetlands.

3. This section shall be liberally construed to effect the purposes set forth herein.

4. This section shall apply to the dredging, filling, or draining of wetlands, or any other manner of alteration which has the potential to impact wetlands located in Palm Beach County.

D. AUTHORITY.

1. This section is adopted under the authority of the Palm Beach County Environmental Control Act, Chapter 77-616, Special Acts, Laws of Florida, as amended.

2. In accordance with the existing local program agreement with the Florida Department of Environmental Regulation, this section is adopted pursuant to Sec. 403.182, Fla. Stat. Chapter 403, Fla. Stat., Part VIII, and Chapters 17-4, 17-301, 17-302, 17-321 and 17-312, F.A.C., are adopted as if set forth in full herein. In the event of a conflict between this section and the adopted Florida Statute or F.A.C., the provisions which are more stringent shall govern.

3. Private single-family dock permitting authority delegated to ERM by the U.S. Army Corps of Engineers by General Permit SAJ-9 is adopted as if set forth in full herein. In the event of a conflict between this section and General Permit SAJ-9, the provisions which are more stringent shall govern.

4. Mangrove trimming criteria for Aquatic Preserves, as delegated to ERM by agreement with the Florida Department of Natural Resources, is adopted as if set forth in full herein. In the event of a conflict between this section and said delegation agreement, the provisions which are more stringent shall govern.

E. JURISDICTION.

1. Palm Beach County shall have regulatory authority over all wetlands as defined in Article 3, Definitions, and in Section 9.4.B.30. with the exception of:

   a. Isolated wetlands, less than one-half (½) acre total area, entirely surrounded by uplands; and

   b. Storm water treatment and flood attenuation ponds as permitted by the SFWMD which are located behind a water control structure, with no overlap on wetlands.

   c. Man-made sewage treatment and percolation ponds as permitted by FDER.

2. Permit applications for which the Palm Beach County Board of County Commissioners is the applicant, shall be processed by other state and federal agencies as appropriate.

3. Upon request, ERM shall provide a wetlands jurisdictional determination of a specified parcel of land. The request shall include at least three (3) aerial photographs of the land at a scale of 1" = 200' or less scale, with the subject property boundaries clearly marked. At the request of ERM, the landowner may be required to provide directions, access, or field marking of the subject parcel. Such jurisdictional determinations shall be considered accurate by ERM for a period of two (2) years, unless the site vegetation or hydrology changes, or there is a change to this section, at which time the jurisdictional determination shall be considered invalid.

F. EXEMPTIONS.

1. The following activities are exempt from the permitting requirements of this section:

   a. The installation of transmission lines that do not require dredging or filling of wetlands or alteration of mangroves or seagrasses.

   b. The installation of a dock in non-tidal waters, provided that:

      (1) Its coverage over jurisdictional wetlands is four hundred (400) square feet or less; and

(2) It is for private, recreational, noncommercial use; and

(3) It is the sole dock as measured along the shoreline for a minimum distance of sixty-five (65) feet; and

(4) No dredging or filling is necessary except for the placement of pilings; and

(5) It terminates in at least -3 feet OLW; and

(6) It will not obstruct navigation.

c. The replacement or repair of existing functional piers, mooring piles or boat ramps at the same location and of the same dimensions as the pier, mooring pile or boat ramp being repaired or replaced.

d. The placement of a boat lift or mooring pilings in the intended mooring area of a dock permitted by ERM.

e. The replacement or repair of an existing functional seawall, not more than one (1) foot waterward, where no wetland vegetation will be altered, and dredging is done only as necessary to install the new wall, and provided that the new wall is faced with:

(1) Riprap stacked at a minimum 2H:1V slope, at least to the height of MHW or OHW, or four (4) feet above bottom, whichever is less; or

(2) A minimum three (3) feet wide littoral zone planted and maintained with native aquatic vegetation at the appropriate elevations as determined by ERM.

f. Placement of supporting batter piles at an existing functional seawall, provided that no wetland vegetation would be altered and dredging is performed only as necessary to place the pilings.

g. Alteration of mangroves, as necessary, by a registered land surveyor, in the performance of land surveying, such alteration not to exceed three (3) feet in width.

h. Maintenance dredging of existing man-made tidal water bodies to original permitted specifications or -5' MLW (or OLW) provided that:

(1) Wetland vegetation will not be impacted by the proposed dredging; and

(2) The dredged spoil is deposited on a self-contained upland site with no water or spoil material returned to the canal; and

(3) Turbidity control is used as necessary to prevent a water quality violation of Sec. 9.4.G.

i. The performance of maintenance dredging of existing man-made nontidal canals, channels, and intake and discharge structures, where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material and return water from the spoil site into surface waters of the state, provided no more dredging is performed than is necessary to restore the canals, channels, and intake and discharge structures to original design specifications, and provided further that control devices are used at the dredge site to prevent turbidity and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. This exemption shall apply to all canals constructed before April 3, 1970, and to those canals constructed pursuant to all necessary state permits on or after April 3, 1970. This exemption shall not apply to the removal of a natural or man-made barrier separating a canal or canal system from adjacent waters of the state. For those canals constructed prior to April 3, 1970, where no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of engineers for construction or maintenance dredging of the existing man-made canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below OLW.

j. The installation of aids to navigation, including but not limited to bridge fender piles, "No Wake" and similar regulatory signs, and buoys associated with such aids, provided that the devices are marked pursuant to Sec. 327.40, Fla. Stat.

k. Repair or replacement of existing stormwater discharge pipes to original configurations.

l. Construction and maintenance of swales.

m. The replacement or repair of open-trestle foot bridges and vehicular bridges provided that no more dredging or filling is performed than necessary to replace or repair pilings and that the structure to be replaced or repaired is the same length, the same configuration, and in the same location as the original bridge, and provided that no debris from the original bridge shall be allowed to remain in jurisdictional wetlands.

n. The placement of riprap at the toe of an existing seawall provided that no mangroves or seagrasses would be impacted.

o. The construction of a culverted roadway or bridge crossing of a wholly artificial, non-tidal drainage conveyance canal provided that:

(1) The size and number of culverts are adequate to pass normal high water stages of the canal being crossed; and

(2) The elevation of the culvert invert shall be at the existing bottom grade of the canal; and

(3) The total width of the fill pad shall not exceed one hundred twenty (120) feet; and

(4) Clean fill shall be used, with resulting side slopes no steeper than 2H:1V; and

(5) The structure shall be maintained so as to continue to provide at least the same volume of discharge through the culvert(s); and

(6) Turbidity control devices are placed on either side of the structure during construction so as to effectively isolate the project area from upstream and downstream waters.

p. The installation, replacement, repair and maintenance of water control structures located in canal conveyance systems owned and operated by water management special taxing districts of the State of Florida.

q. Those activities specifically exempted by the Palm Beach County Environmental Control Act, 77-616, Special Acts, Laws of Florida.

r. Those projects to alter isolated wetlands that are granted construction permits pursuant to the SFWMD isolated wetlands rule on or before February 2, 1990.

s. Those projects for which ERM determines that there will be no significant adverse environmental impacts.

t. The replacement or repair of subaqueous transmission and distribution lines laid on, or imbedded in, the bottom of a wetland.

u. Dredging or filling which is required to connect stormwater management facilities permitted by the SFWMD to non-tidal wetlands and which is incidental to the construction of such stormwater management facilities. Incidental dredging or filling shall include:

(1) Headwalls and discharge structures; and

(2) Erosion control devices or structures to dissipate energy which are associated with discharge structures; and

(3) Outfall pipes less than twenty (20) feet in length in waters provided the pipe does not interfere with navigation; and

(4) The connection of ditches dug through the uplands where the dredging or filling for the connection to wetlands extends less than twenty (20) feet in length into the wetland; and

(5) Other dredging or filling which ERM determines will have a similar effect as those activities listed above.

v. A permit under this Section will not be required if the activities otherwise regulated hereunder will be conducted on a single-family residential lot and:

(1) The lot will be used for private, single-family residential purposes only, has not been further subdivided since February 2, 1990, and is not currently undergoing subdivision; and

(2) The lot qualifies as a buildable lot under the Density Determination provisions of the 1989 Palm Beach County Comprehensive Plan; and

(3) The lot is 2.5 acres or less in size when measured from the property boundaries; and

(4) The wetlands proposed to be impacted are isolated in that they are not jurisdictional under Chapter 403, Fla. Stat.; and

(5) The activities will not result in the transport of fill material from the lot to an off-site location; and

(6) ERM has determined that the wetlands on the lot have already been impacted by existing legal construction or development in the surrounding area. The determination shall reflect prior installation of existing access roads and drainage systems in the area, construction of houses on adjacent lots, and overall viability of the wetland. The owner of the lot affected by ERM's determination may appeal the determination pursuant to Section 9.4.K. of this Code.

(7) Lots meeting the requirements of this section may be deemed eligible as Transfer of Development Rights sending areas pursuant to the procedures contained in Section 6.10.

The Department may maintain a list of the subdivisions, sections within subdivisions, or areas containing lots which meet the criteria listed in (1) through (6) immediately above, as it becomes aware that such criteria have been met. The Department shall provide any such list to the County's PZ&B Department to assist in expediting the permit process.

w. Those projects to alter wetlands where the property owner has received an exemption from dredge and fill permitting, pursuant to Section 403.817(2), F.S.

G. WATER QUALITY STANDARDS.

The water quality rules and standards as set forth in Chapter 17-302, F.A.C. existing on the effective date hereof and as may be amended from time to time, are hereby adopted and incorporated by reference as if set forth in full herein. The mixing zones referenced in Chapter 17-4, Florida Administrative Code, are also adopted as if set forth in full herein.

H. PERMITS.

1. Any construction, dredging, filling, or alteration in, on or over a jurisdictional wetland or which will negatively impact the functions and value of a jurisdictional wetland shall require a permit by ERM, unless specifically exempted by this section.

2. Permit applications shall be made on forms prescribed by ERM. ERM is encouraged to make use of forms already in use by other state or federal environmental regulatory agencies.

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

   a. An explanation of the need and intent of the project;

   b. A description of construction or alteration methodology;

   c. A completed application form;

   d. Aerial photographs;

   e. Line sketches;

   f. Sediment analysis;

   g. Water quality analysis;

   h. Engineering models and predictions;

   i. Methods of water quality control;

   j. Biological evaluation of the project site, including benthic macroinvertebrate sampling and reporting;

   k. Identification of the species and location of wetland vegetation in the vicinity of, and likely to be affected by, the project;

l. Water depths referenced to MLW, MHW, OLW, or OHW, as appropriate;

m. Estimated cost of any mitigation;

n. Site plan;

o. Scaled photographs of mangroves prior to alterations. (Permits issued to alter mangroves within an Aquatic Preserve shall require similar photographs after alteration).

4. Items a-c, e, k, n, and o described above shall be a minimum requirement for any application made to alter mangroves within an aquatic preserve.

5. It shall be the responsibility of the applicant to provide a copy of the submitted application form (via certified mail) to all adjacent property owners whose property also adjoins the wetland when a request is made by ERM pursuant to Sec. 9.4.H.7, below. Within thirty (30) days of such a request, the applicant shall provide the certified mail receipts to ERM.

6. Where an application is made for work in common areas of a multi-family residential site (i.e., condominiums, apartments, townhouses, villas, and similar structures) the representative association, or all of the homeowners as a group, shall be the applicant. ERM shall not process an application made by one (1) unit owner in a multi-family setting where the work is proposed on lands designated as common areas.

7. Upon receipt of an application and appropriate application fee, ERM shall have thirty (30) days to request any additional information pursuant to Sec. 9.4.H.3, above. Within thirty (30) days of receipt of such additional information, ERM may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. ERM may begin processing an application in the absence of the appropriate application fee. However, no time clocks of this subsection shall begin until the appropriate application fee is received.

8. If ERM does not make a request for additional information within thirty (30) days of receipt of an application and appropriate application fee or requested information, the application shall be deemed complete upon receipt.

9. If an applicant fails to respond to a Department request for an application fee, or any additional information, within sixty (60) days, the application may be deactivated without prejudice. However, ERM may grant an extension of time as is reasonably necessary to fulfill the request for additional information.

10. Upon receipt of a completed application and fee, ERM shall have ninety (90) days to take final action, unless the time clock is tolled by the applicant. Final action shall be permit issuance, permit denial, or conditional permit issuance. Failure by ERM to take final action within ninety (90) days shall result in the authorization of the proposed work with standard limiting conditions.

11. Any application containing false information, or any permit issued based upon false information, may be denied or revoked and may subject the applicant to enforcement proceedings pursuant to Section 9.4.M.

12. Department permits shall be issued with a duration period that is reasonably necessary to complete the project and any necessary mitigation, not to exceed five (5) years for projects up to 100 acres of wetlands and not to exceed ten (10) years for projects over 100 acres of wetlands.

13. ERM may attach conditions to any permit where such conditions are deemed reasonably necessary to protect the environmental integrity of the subject site, restoration or mitigation areas, or adjacent wetland areas.

14. Any application received that is substantively the same as a previous application that has been denied by ERM shall also be denied without further processing.

15. Any site or property owner which has been found to be in violation of any section administered by ERM, shall not be issued a Department permit until such violation has been corrected.

16. Any substantial modification to a complete application (unless the modification is recommended by ERM) or to an issued permit, shall require an additional application fee pursuant to Sec. 9.4.L and shall restart the time frames of this subsection.

17. Department permits issued solely to maintain mangrove trees to specified dimensions may be renewed annually provided that:

    a. A written request for renewal and application fee is received while the permit is valid; and

    b. The project is in compliance with the current permit; and

    c. The project complies with standards of this section as it exists at the time of renewal application.

18. All drawings for applications other than work on a private single-family residential lot shall be sealed or certified by:

    a. a Florida registered professional engineer; or

    b. a Florida registered professional surveyor; or

    c. a Florida registered professional landscape architect; or

    d. an Environmental Professional certified by the National Association of Environmental Professionals or the Florida Association of Environmental Professionals.

I. CRITERIA FOR GRANTING PERMITS.

1. A permit may not be issued pursuant to this section until it is determined that the following general criteria will be met:

   a. There shall be no net loss of wetland values and functions.

   b. The project will not adversely affect the conservation of fish or wildlife or their habitats.

   c. The project will not cause excessive shoaling or erosion.

   d. The project will not adversely affect commercial or recreational fisheries or their habitat.

   e. Endangered species, threatened species, and species of special concern and/or their habitat will not be adversely impacted.

   f. Project alternatives and modifications to lessen impacts have been determined to be infeasible.

   g. The project is not in contravention with any other federal, state or local designated preserve or conservation or mitigation area.

   h. ERM determines that the cumulative impacts of the subject project and other similar projects will also meet the criteria of this subsection.

   i. No dredging or filling shall occur in seagrasses except that which may be allowed by Section 9.4.I.2.c.

   j. Any structure proposed on or over a wetland is water dependent.

2. In addition to the foregoing general criteria, a permit shall not be issued for the following specific activities unless and until the following additional specific criteria have been met:

   a. Docks. When issuing permits for docks, ERM shall require that:

      (1) Mooring areas shall be located in water depths at least three (3) feet MLW or OLW; and

      (2) Mooring areas, roof structures and termini shall not be located over seagrasses; and

      (3) An access pier permitted to pass over seagrasses shall be no more than four (4) feet wide, or up to six (6) feet wide if elevated five (5) feet above MHW.

b. Bulkheads. Any bulkhead permitted by ERM (except those located within a commercial boat haul out facility or upland marina basin) shall be faced with:

(1) Riprap stacked at a minimum 2 horizontal: 1 vertical (2H:1V) slope, at least to the height of MHW (or OHW), or four (4) feet above bottom, whichever is less; or

(2) A minimum three (3) feet wide littoral zone planted and maintained with native aquatic vegetation at the appropriate elevations.

c. Access channels. An access channel may be permitted through seagrasses to reach an upland boat basin provided that:

(1) The channel meets all other general criteria of Sec. 9.4.I.1; and

(2) The channel does not exceed the minimum width necessary for safe operation of the channel.

d. Mangrove Alteration. ERM shall adhere to the following criteria when issuing mangrove alteration permits:

(1) Alteration for a view.

(a) A mangrove tree may be permitted to be trimmed or maintained not less than seven (7) feet tall as measured from the substrate.

(b) A mangrove tree may not be reduced in height or canopy by greater than thirty (30) percent of its original (prior to any alteration) height or canopy.

(c) Trimming for a view may be permitted through a mangrove fringe whose width does not exceed 30 feet as defined in Section 9.4.B.

(2) Up to fifty (50) percent of an owner's shoreline or a shoreline length equal to or less than the shoreline length of the habitable portion of the dwelling that faces the water (whichever is less) may be permitted to be altered when necessary to achieve a water view.

(a) Cut plant material (except leaves) shall not be placed in jurisdictional wetlands.

(b) No root structures (including prop roots and pneumatophores) may be altered.

(c) Trimming that can reasonably be expected to result in the death of a mangrove tree shall not be permitted.

(d) Any mangrove the trunk of which is greater than twelve (12) inches in diameter at breast height, or thirty-seven (37) inches in circumference, shall not be trimmed.

(3) Alteration for Dock Access.

(a) A dock up to four (4) feet wide may be permitted to pass through a mangrove fringe.

(b) Dock pilings may be spaced no closer than ten (10) feet apart within the fringe, or not placed within the fringe where possible.

(4) Alteration for Other Reasons. ERM may permit the minimum amount of alteration as is reasonably necessary, provided the alteration is consistent with the general criteria of Section 9.4.I.1.

(5) To provide an incentive for the propagation of mangroves, ERM shall waive the application fee for any permit issued, provided that the mangroves are naturally less than twenty-four inches tall at the time of application.

(6) Trimming Freeze Damaged Mangroves. Freeze-damaged mangroves may be trimmed to a greater extent than live mangroves for the purpose of removing dead wood. Freeze damaged mangroves which occur outside of an otherwise permitted trim area for live mangroves shall remain untrimmed, except for those deemed by ERM to pose a safety hazard. A safety hazard shall be determined to exist when a dead mangrove tree is within twenty (20) feet or fall height of any habitable portion of a dwelling. Permits to alter freeze damaged mangroves shall be subject to the following conditions.

(a) ERM shall not consider a request to alter freeze damaged mangroves until October 1, following the freeze event.

(b) Freeze killed mangroves may be cut no lower than four (4) feet above the substrate or one (1) foot above the highest prop root, whichever is higher above the substrate.

(c) Freeze damaged mangroves may be altered by removing dead material not closer than one foot to live material, in no case to exceed the specifications of (b) above.

(d) Mangroves determined to be a safety hazard may be altered in accordance with specifications (b) and (c) above.

(7) Mitigation for Mangrove Alteration. The following specifications shall apply to permits issued to trim mangroves within a DNR-designated Aquatic Preserve:

(a) All permits issued to trim more than fifty (50) lineal feet of mangrove shoreline shall require mitigation at a ratio of one square foot for every lineal foot of mangrove shoreline permitted to be trimmed. Such mitigation shall be consistent with Secs. 9.4.J.3.b through 9.4.J.3.g.

(b) Where mitigation is determined by ERM to be impractical on-site, and no apparently suitable off-site mitigation areas exist, the permittee shall be required to make a monetary contribution to the Palm Beach County Pollution Recovery Trust Fund. The permittee, prior to any trimming, shall remit $2 for every lineal foot of mangrove shoreline permitted to be trimmed. Said monies shall be dispersed by the Board of County Commissioners for environmental enhancement.

e. Marinas.

(1) General Intent. It shall be ERM's policy to:

(a) Favor upland boat storage over waterward storage;

(b) Favor dredging uplands to create a marina basin over dredging wetlands;

(c) Favor making use of naturally occurring deep water areas over dredging shallow areas;

(d) View the avoidance of impacts to seagrasses as a crucial factor in determining marina location.

(2) Marina Location.

(a) Applications for new marinas shall not be permitted where local zoning prohibits such use.

(b) Applications for new commercial marinas or fueling facilities shall not be permitted in any area designated by the State of Florida as a Class I or II Waterbody, or the Jenson Beach to Jupiter Inlet Aquatic Preserve, or that portion of the

Loxahatchee River Aquatic Preserve that lies west of Alternate State Road A1A.

(3) Marina Design.

(a) Boat mooring sites shall not be permitted over seagrasses.

(b) Where pier access is gained over seagrasses, the pier may be up to four (4) feet wide, or six (6) feet wide if elevated at least five (5) feet above MHW.

(c) Boat mooring sites may be approved only in water depths of -4' MLW (or -3' OLW in freshwater) for slips up to thirty (30) feet long. Greater depths shall be required for larger vessels so as to prevent prop-dredging.

(d) Marinas in tidal waters shall be designed and located so as to provide a basin turnover or water replacement time of not more than seventy-two (72) hours with no dead spots and pollutant concentrations not to exceed those standards adopted by Section 9.4.G. It shall be the responsibility of the applicant to demonstrate compliance with this requirement.

(4) Support Services.

(a) All marinas shall provide at least one sewage pump-out facility capable of handling sewage in accordance with state and local standards for every forty (40) slips permitted by this section. Pump-out facilities should be located at fueling facilities when available.

(b) All gas pumps which service boats shall be equipped with an operating automatic cut-off device at the nozzle so as to avoid spillage of fuel into the water. Handle valve latches or other hold-open devices are prohibited.

(5) Marking.

(a) All marinas adjacent to shallow waters (less than -4' MLW) or seagrasses shall be required to effectively mark points of ingress and egress between the marina and deep water channel. All such devices shall be marked pursuant to Sec. 327.40, Fla. Stat.

(b) Any environmentally sensitive areas identified by ERM including, but not limited to seagrasses, shall be marked by the permittee with the intention of keeping boaters away from

such areas. Each project shall be evaluated separately to determine environmentally sensitive areas.

(c) All marinas in tidal waters shall post at least one manatee awareness sign (as approved by the Florida Department of Natura Resources) at a prominent location within the marina.

f. Excavation Section. Any dredging projects permitted pursuant to this Section shall not be required to obtain a separate excavation permit pursuant to Section 7.6 of this Code although the criteria contained in Section 7.6.F.1 through 11 may be applied, where applicable, to dredging projects permitted pursuant to this section.

J. MITIGATION.

1. For projects that do not meet the permitting criteria of Sec. 9.4.I, ERM may evaluate proposals for mitigation. ERM shall first use the criteria of Sec. 9.4.J.2. to determine when mitigation is appropriate. The criteria of Sec. 9.4.J.3 shall be used to set standards for accepting mitigation proposals.

2. When to Evaluate Mitigation Proposals.

a. No alternative site. Restoration or creation may be permitted to compensate for new wetland loss only where a permit applicant demonstrates that the proposed activity cannot be practically located at an alternative, non-wetland site. The applicant must also demonstrate that the proposed activity cannot practically be located on the upland portion of the site or another site.

b. All practical measures will be taken to reduce impact. Restoration or creation may be permitted to compensate for wetland loss only where the permit applicant has made reasonable project modification measures to reduce wetland loss and degradation such as site design to reduce fill into or drainage of the wetland, provision of an upland buffer area and other erosion control measures where the activity will cause erosion, construction of pretreatment facilities for stormwater to be discharged into wetlands, and undertaking activities at such time of year as would have the least impact upon the wetland or endangered or threatened species.

3. Standards for Mitigation.

a. No overall net losses. Restoration or creation may be permitted to compensate for wetland losses only where restoration and/or creation will restore lost wetland functions and values. The following mitigation ratios shall be presumed to restore wetland functions and values when done in kind:

(1) Tidal wetlands 2.0:1

(2) Freshwater forested swamp, non-cypress dominated 2.5:1

(3) Freshwater forested swamp, cypress dominated 2.0:1

(4) Freshwater marshes 1.5:1

Only where the created wetland can be expected to surpass the values and functions of the existing wetland can the ratio be adjusted downward.

ERM shall require a ratio for restored or created functions or acreage exceeding these ratios where:

(1) Uncertainties exist as to the probable success of the proposed restoration or creation; or

(2) The degradation or destruction will deprive Palm Beach County of various wetland values for a period of time until the restoration or creation is completed and functional; or

(3) Mitigation is proposed off site or not in kind; or

(4) Mitigation proposed includes restoration or enhancement of existing wetlands rather than creation of new wetlands.

b. Adequate hydrology, soils and other basic requirements. Wetland restoration, enhancement, or creation may be permitted only where those hydrologic, soil, side slope, and other basic characteristics of the proposed project are adequate to achieve the proposed project goals.

c. Persistence. Wetland restoration or creation may be permitted to compensate for new wetland losses only where the restored or created wetland will be at least as persistent as the existing wetland system it is intended to replace.

d. Sufficient financial resources. Evidence of financial resources necessary to complete the mitigation activities shall be provided by the applicant except in the case of an application by a political subdivision or agency of the State. Such evidence may be:

(1) a letter of credit acceptable to ERM; or

(2) a performance bond acceptable to ERM; or

(3) similar security acceptable to ERM.

e. **Maintenance and monitoring.** For all mitigation projects, ERM shall require, at a minimum:

(1) Maintenance of at least eight (80) percent survivorship of all plantings for at least two (2) years; and

(2) Quarterly monitoring reports of the status of the mitigation area, including number of surviving plantings and any plantings made to maintain eighty (80) percent survivorship; and

(3) Quarterly replantings to maintain eighty (80) percent survivorship; and

(4) Maintenance and removal of exotic species.

f. **Mitigation before alteration.** Except where prohibited by necessary construction techniques or sequences, as determined by ERM, the initial construction, earthwork and planting for mitigation shall be completed prior to the permitted alteration of wetlands. Where ERM determines that necessary construction techniques or sequences prohibit mitigation before alteration, the applicant shall provide a Letter of Credit or Performance Bond to ERM in an amount equal to one-hundred ten (110) percent of the cost of mitigation prior to the permitted alteration of wetlands.

g. **Buffer zones.** Buffer zones may be required around isolated wetlands that are created, enhanced or preserved pursuant to this section. Actual delineation of the buffer zone may vary according to site specific conditions. Buffer zones which extend at least fifteen (15) feet landward from the edge of the wetland in all places and average twenty-five (25) feet from the landward edge of the wetland will be presumed to be adequate.

4. An owner of a lot which meets the exemption criteria of Section 9.4.F.1.v. with the sole exception of number 3 thereunder, shall not be required to perform mitigation to obtain a permit under this section if the lot is 3 acres or less. However, all wetland impacts must be avoided or minimized to the greatest extent possible. The mitigation criteria shall be waived when the Department determines that the project otherwise meets the general permitting criteria of Section 9.4.I and when ERM determines that the owner has made all reasonable project modifications to avoid or reduce wetland impacts. Reasonable modifications may include but shall not be limited to changes in site design to reduce fill in a wetland, to reduce drainage of a wetland, to eliminate non-essential non-habitable structure, or to reduce the project footprint by implementing a more vertical design of structures.

K. APPEALS.

1. An applicant may appeal any decision made by ERM to the Environmental Ordinance Appeals Board. A written notice of appeal shall be filed by the applicant with the Director of ERM within twenty (20) days from receipt of the decision appealed from, setting forth in detail the factual basis for such an appeal. The matter shall be reviewed in hearing by the appeal board within sixty (60) days of ERM's receipt of a request and a fifty (50) dollar filing fee. The appeal board shall enter a decision by written order no later than ten (10) days following conclusion of the hearing. The order shall include findings of fact and conclusions of law and shall be deemed final administrative action. An applicant or ERM may appeal a final decision of the appeal board within thirty (30) days of the rendition of the decision by filing a petition for Writ for Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

L. FEES.

1. Permit application fees shall be nonrefundable and nontransferable.

2. All application fees paid by check shall be made payable to the "Palm Beach County Board of County Commissioners."

3. A Fee shall be required as established by the approved Fee Schedule.

M. ENFORCEMENT.

1. Any projects, activities or alterations which would have been in violation of Palm Beach County Ordinance No. 81-18, as amended, or 78-5, as amended, or 90-5, as amended, or 90-41, as amended during its effective period, shall continue to be violations under this section but shall be subject to prosecution under the respective Ordinance.

2. It shall be a violation of this section for any individual to alter, or cause or allow to be altered, any jurisdictional wetland without benefit of a Department permit, or in contravention to a Department permit. Activities specifically exempted by this section shall not be a violation of this rule.

3. ERM shall have available to it all enforcement remedies made available pursuant to Chapter 77-616, Laws of Florida, as amended.

N. SUNSET CLAUSE.

Those provisions of this Section that are duplicative of other State regulatory efforts but that are not delegated by said agencies on or before March 15, 1993, shall sunset at 5:00 p.m. on March 15, 1993, unless otherwise renewed by the Board of County Commissioners, or upon a change in the status of the joint wetlands permitting agreement between Palm Beach County and the Florida Department of Environmental Regulation, whichever occurs first.

ARTICLE 10.

IMPACT FEES

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ARTICLE 10.
IMPACT FEES

Please Note

This document has been prepared to serve as the interim copy of the Unified Land Development Code, adopted on June 16, 1992 and effective on June 22, 1992. It has been prepared for use by staff and those persons who refer to the entire Code on a regular basis.

This document is not codified and may contain certain inconsistencies in construction. It should only be used as a guide until a codified copy of the Code is available.

ARTICLE 10.
IMPACT FEES

SEC. 10.1 GENERAL.

A. Intent, authority and findings.

1. Intent. This article is intended to implement and be consistent with the Comprehensive Plan and to regulate the use and development of land. It is the intent of Palm Beach County that new development shall bear a proportionate share of the cost of capital expenditures necessary to provide park, fire-rescue, library, law enforcement, public building, school site and road capital facilities in Palm Beach County as is contemplated in the Comprehensive Plan.

   Impact fees shall not be used to collect more than is necessary to fund such capital facilities. The impact fees in this article are based on the Impact Fee Report, as amended, and the methodology adopted for Fair Share Road Impact Fees, which establish a fair and equitable allocation of costs and recognize past and future payments from new development, as well as credits for in-kind contributions, and municipal provision of like facilities under certain circumstances.

   Funds collected from impact fees shall not be used to replace existing capital facilities or to fund existing deficiencies, but only to provide for new capital facilities which are necessitated by new development.

2. Authority. The provisions of this article are authorized by Art. VIII, Sec. 1(g), Fla. Const., Secs. 125.01 et. seq., 163.3161 et. seq., 236.24(1), and 380.06, Fla. Stat., Sec. 1.3(2), the Palm Beach County Charter, and the Capital Improvements Element of the Comprehensive Plan. In addition, the provisions of this article are necessary for the implementation of the Comprehensive Plan, and for meeting the school planning requirements of Sec. 135.193, et. seq., Fla. Stat. The inclusion of certain capital facilities in these impact fees shall not be construed as a limitation on the authority of Palm Beach County to impose impact fees for additional capital facilities consistent with Florida law.

3. Findings. Palm Beach County finds that the provisions of this article are land development regulations which are: necessary for the implementation of the Comprehensive Plan; needed to ensure that developments of regional impact are assessed impact fees under Sec. 380.06, Fla. Stat.; innovative land development regulations authorized by Sec. 163.3202(3), Fla. Stat.; necessary to ensure the coordination of new development and the provision of capital facilities, especially sites for new schools; a mandatory responsibility of Palm Beach County under the Local Government Comprehensive Planning and Land Development Regulation Act, Sec. 163.3161 et. seq, Fla. Stat.; and necessarily and reasonably related to the public health, safety and welfare.

B. **Applicability.** This article shall apply to the unincorporated area of Palm Beach County and to the municipalities in Palm Beach County to the extent permitted by the Palm Beach County Charter and Art. VIII, Sec. 1(g), Fla. Const., unless otherwise expressly stated in this article.

C. **Exemptions.** The following development shall be exempt from the payment of the respective impact fees, as applicable. Any exemption not claimed at the time of issuance of the building permit shall be deemed to have been waived by the feepayer.

1. Any development that results in no new impact on a capital facility for which the impact fee is assessed by the County.

2. Alteration, expansion or replacement of a building or unit existing on January 1, 1989, or presently existing where:

   a. the number of units or square footage is not increased; or

   b. the use does not change or any change in use does not result in a new impact on a capital facility for which the impact fee is assessed.

   A use of a structure or land which has been abandoned for a period of more than five (5) years shall not be considered existing for the purposes of this article. The burden of demonstrating the existence of a use of a structure or land shall be on the feepayer.

3. The construction of accessory buildings or structures where the use is not changed such that an additional impact does not result from the construction and where no additional units or square footage are added.

4. The construction of publicly owned governmental buildings or facilities.

D. **Imposition of Fee.**

1. New land use. Any new land development creating an impact on any public facility as defined in this Code shall be required to pay impact fees in the amount and manner set forth in this article to help regulate the new land development's effect on those public facilities. No building permit for any land development requiring payment of an impact fee pursuant to this article shall be issued until the impact fee has been paid by the feepayer. No building permit for any land development requiring payment of an impact fee pursuant to this article shall be renewed or extended until the impact fee in effect at the time of the renewal or extension has been paid by the feepayer. For those land uses that do not require a building permit, the impact fee shall be paid prior to receipt of a development order that initiates impact on public facilities. Payment of the impact fee shall not relieve the feepayer from the obligation to comply with Article 11, Adequate Public Facility Standards, or any other portion of this Code.

2. **Expansion, replacement or change of use of existing land uses.** Any existing land use that is expanded, replaced, or changed shall be required to pay impact fees based on the new or additional impact as a result of the expansion, replacement or change of use. If the use of a structure or land has been abandoned for a period of five (5) years, no credit or exemption shall be given for the existing structure, and the impact fee shall be calculated on the entire existing and proposed structure or use. Any impact fees previously paid for such use or structure may be credited against an impact fee assessed for the same impact fee component upon presentation of documentation of such payment to the Impact Fee Coordinator. In the case of an addition to existing development, the feepayer shall provide to the local government a certification of an architect, engineer, contractor, surveyor, or 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 shall have the option of paying the impact fee for the addition as if it alone were a new building rather than provide the certification of existing square footage.

E. **Computation of fee.**

1. **General.** At the option of the feepayer, the amount of the impact fee may be determined either by the fee schedules for each impact fee component pursuant to Sec. 10.1.E.2, 10.8.C and Secs. 10.2-10.8, or by an independent calculation pursuant to Sec. 10.1.F. If the amount of the impact fee for the land use is not determined in the fee schedule and the feepayer opts not to conduct an independent calculation, the impact fee shall be determined by the Impact Fee Coordinator as described in Sec. 10.1.E.3 and Sec. 10.1.E.2, 10.8.C.

2. **Fee schedule.** The impact fees in the fee schedules have been calculated using the data and methodologies described in the Impact Fee Report, as amended, and in the methodology adopted for fair share road impact fees. Impact fees are applicable to new development in unincorporated Palm Beach County and the municipalities within Palm Beach County, and the impact fee schedules establish impact fees based on the proportional impacts of, and benefits to, new development on and from capital facilities provided by Palm Beach County and the School Board.

3. **Land uses not specified in fee schedule.**

a. **Impact fees other than roads.** Except for road impact fees, if the type of land development for which a building permit or other appropriate permit is applied, is not specified on the impact fee schedule, the Impact Fee Coordinator shall use the impact fee applicable to the most nearly comparable type of land use on the fee schedule. For road impact fees, the Impact Fee Coordinator shall select the most comparable type of land use from the most current edition of Trip Generation, a publication of the Institute of Transportation Engineers (ITE). The Impact Fee Coordinator shall follow the procedure pursuant to Sec.10.1.E.2, 10.8.C.

4. **Mixed use.** For mixed use development where there is a development order expressly identifying the type and proportion of uses within the development, the impact fee shall be determined by applying the fee schedule to the uses and proportions of use specified in the development order. For mixed use development where there is no development order specifically limiting the type and proportion of uses within the development, the impact fee shall be determined using the fee schedule for the most intense use.

5. **Bi-annual review.** Bi-annually beginning in January, 1994, the Impact Fee Coordinator shall recommend to the Board of County Commissioners whether any changes should be made to the fee schedules to reflect changes in the factors that affect the fee schedules. This recommendation shall be as a result of a review of the data from which the fee schedules are calculated. The purpose of this review is to evaluate the level of service for each impact fee component to determine whether it should be adjusted based on changed conditions, to analyze the effects of inflation and other cost factors on the actual costs of capital facilities, to assess any changes in credits and generation rates and to ensure that the impact fee charged new land use activity impacting capital facilities will not exceed its pro rata share for the reasonably anticipated costs of capital facilities necessitated by the new land development.

F. **Independent fee calculation study.**

1. **General.** If a feepayer opts not to have the impact fee determined according to the fee schedule, then the feepayer shall, at the feepayer's expense, prepare and submit to the Impact Fee Coordinator an independent fee calculation study for the proposed land use. An independent fee calculation study for road impact fees shall be submitted simultaneously to the Impact Fee Coordinator and the County Engineer. The independent fee calculation study shall follow the methodologies used in the Impact Fee Report, or the methodology used for the calculation of road impact fees, whichever is appropriate. The independent fee calculation study shall be conducted by a professional in impact analysis. The burden shall be on the feepayer to provide the Impact Fee Coordinator all relevant data, analysis and reports which would assist the Impact Fee Coordinator in determining whether the impact fee should be adjusted. The Impact Fee Coordinator shall adjust the impact fee if substantial evidence is submitted that clearly demonstrates that an adjustment is necessary under the methodology upon which the impact fee is based.

2. **Submission of application.** The application for an independent calculation study shall be submitted to the Impact Fee Coordinator, except that an independent calculation study for road impact fees shall be submitted simultaneously to the Impact Fee Coordinator and the County Engineer.

3. **Contents of application.** The application shall be in a form established by the Impact Fee Coordinator and made available to the public. The independent fee calculation study shall follow the methodologies used in the Impact Fee Report, or the methodology used for the calculation of road impact fees, whichever is appropriate. The independent fee calculation shall be conducted by a professional in impact analysis. A feepayer wishing

to perform an independent fee calculation study for road impact fees shall prepare a traffic impact analysis, which shall include, as appropriate, documentation of:

a. trip generation rates appropriate for the proposed land use;

b. trip distribution and traffic assignments;

c. trip length data appropriate for the proposed land use; and

d. any other trip data employed in the independent fee calculation that is appropriate for the proposed land development.

e. An economic documentation study that includes documentation of:

(1) costs for roadway construction, including the cost of right-of-way, design, and engineering appropriate for the necessary road improvements.

(2) credits attributable to the proposed land use for roadway improvements which can be expected to be available to replace the portion of the service volume used by the traffic generated by the proposed land development.

(3) The shortfall when the credits attributable to the proposed land use are considered.

4. Determination of sufficiency. The Impact Fee Coordinator shall determine if the application is sufficient within five (5) working days of its receipt.

a. If the Impact Fee Coordinator determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No further action shall be taken on the application until the deficiencies are remedied.

b. If the application is determined sufficient, the Impact Fee Coordinator shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

5. Action by Impact Fee Coordinator.

a. Impact fees other than roads. For other than road impact fees, within ten (10) working days after the application is determined to be sufficient, the Impact Fee Coordinator shall review the application, and if the application provides substantial evidence that clearly demonstrates by the methodology described in the Impact Fee Report that the proposed land use is designed or used such that the occupants of the development will use capital facilities less than that

projected in the impact fee component, the Impact Fee Coordinator shall appropriately adjust the fee.

b. **Road impact fees**. For road impact fees, within fifteen (15) working days after the application is determined to be sufficient, the County Engineer shall review the application and, if the application provides substantial evidence that clearly demonstrates using the formulae described in this section that the proposed land use is designed or used such that the development will create fewer trips than projected in the road impact fee component, shall make a written recommendation to the Impact Fee Coordinator on adjusting the road impact fee. If the Impact Fee Coordinator concurs, the Impact Fee Coordinator shall appropriately adjust the fee within five (5) working days of receipt of the County Engineer's recommendation.

c. **Responsibility of feepayer**. The burden shall be on the feepayer to provide all relevant data, analysis and reports which would assist the Impact Fee Coordinator and, in the case of roads, the County Engineer in making a determination of the appropriate impact fee. The analysis and report must be based on generally accepted methods and the formulas for the specific fee component in the Impact Fee Report, or in the case of roads, the methods and formulas described in this section and below in Sec. 10.8.

d. **Decision in writing**. The decision of the Impact Fee Coordinator to adjust or to refuse to adjust the impact fee shall be in writing and shall be transmitted to the applicant by certified mail within five (5) days of the decision.

6. **Covenant running with the land**. The Impact Fee Coordinator shall require that a covenant running with the land be executed and recorded on the development's land in cases where:

a. The independent fee calculation is based on a use of land having a lesser impact than that upon which the schedule set forth in the fee component is based; or

b. The development could be put to a use having a greater impact than that proposed in the independent fee calculation study without being required to secure a permit or approval for the use; or

c. For such other reasons that make a covenant necessary to ensure compliance with this article.

7. **Appeal**.

a. Any applicant may appeal the decision of the Impact Fee Coordinator by filing an appeal with the Impact Fee Appeals Board within fifteen (15) working days of a decision by the Impact Fee Coordinator. The appeal must state with specificity the reasons for the appeal and shall contain such data and documentation upon which the applicant seeks to rely.

b. The Impact Fee Appeals Board shall make a decision on the appeal within sixty (60) working days of its filing. The Impact Fee Appeals Board shall notify the applicant within fifteen (15) working days of the hearing and invite the applicant or the applicant's representative to attend the hearing.

c. At the hearing, the Impact Fee Appeals Board shall provide the applicant and the Impact Fee Coordinator an opportunity to present testimony and evidence, provided such information was part of the review before the Impact Fee Coordinator. The Impact Fee Appeals Board shall reverse the decision of the Impact Fee Coordinator only if there is substantial competent evidence in the record that the Impact Fee Coordinator erred from the standards in this section.

G. Collection and Administrative Fees.

1. Timing and collection of payment.

a. **Collected at building permit or other development order.** The person applying for issuance of a building permit shall pay the impact fee to the PZB Department, or to the person designated by a municipality to collect the fee (if the municipality is collecting the fee), prior to the issuance of a building permit, or if a building permit is not required, prior to issuance of the development order that authorizes development which places impact on capital facilities for which impact fees are charged.

b. **Municipality may require direct payment to County.** A municipality who is reviewing its own applications for development permits may opt to have Palm Beach County collect the impact fees, pursuant to interlocal agreement. If Palm Beach County is the permitting authority for the municipality by interlocal agreement, no additional interlocal agreement is necessary for Palm Beach County to collect impact fees for permits issued for that municipality. If Palm Beach County collects the impact fees, the municipality shall not be entitled to the two percent (2%) administrative fee. Palm Beach County shall not charge the municipality for collecting the impact fee. The municipality shall be responsible for ensuring that all impact fees are paid before issuing any building permit or other permit.

c. **Municipalities are collecting agents.** Municipalities collecting impact fees under this section are acting only as collecting agents for Palm Beach County. Such municipalities shall be responsible to Palm Beach County for the proper collection and remittance of impact fees, but shall not be liable for the inadvertent miscalculation of impact fee amounts.

2. Administrative fees. Except for Belle Glade, South Bay, and Pahokee, who shall be entitled to retain four percent (4%) because park, school site and road impact fees are not collected, the local government collecting the impact fee shall be entitled to retain two percent (2%) of the funds collected to cover the costs associated with the collection of

the impact fees, and in the case of the County, the administration, investment, accounting, expenditure, and auditing of the funds.

3. **Fees transferred to trust funds.**

   a. **Fees collected by County.** All impact fees collected by the County, less the two percent (2%) administrative fee, shall be properly identified by benefit zone for each impact fee component and transferred daily for deposit in the appropriate impact fee trust fund to be held in separate accounts for each impact fee component and each benefit zone.

   b. **Fees collected by municipalities.**

      (1) All impact fees collected by the municipalities, less the two percent (2%) administrative fee, shall be remitted to the County Finance Department within fifteen (15) calendar days following the month in which the impact fees are collected. One (1) draft may be used to remit the funds to Palm Beach County. Funds received from the municipalities shall be deposited promptly in the appropriate impact fee trust fund.

      (2) If the impact fees are not remitted within fifteen (15) calendar days following the month in which the impact fees are collected, the municipality shall forfeit its two percent (2%) administrative fee. In the event the impact fees are not remitted by the twenty-fifth (25th) calendar day of the month following the end of the month in which the impact fees are collected, the municipality shall forfeit its two percent (2%) administrative fee and shall pay simple interest at the statutory rate of twelve (12%) percent per annum on the entire amount accrued to Palm Beach County. Interest shall accrue beginning the first (1st) day of the month following the end of the month in which the impact fees are collected by the municipality. For the purposes of this section, funds shall be considered to have been remitted to Palm Beach County on the date postmarked, if transmitted by certified mail with the proper postage.

      (3) If receipts are transferred in accordance with Sec. 10.1.G.3.b.(1), the municipalities may retain any interest earned on impact fees collected prior to the transfer of the funds to Palm Beach County in addition to the two percent (2%) to offset the costs of collecting, remitting and accounting for the funds.

4. **Record keeping.** Records shall be maintained by all local governments to ensure proper accounting controls. Palm Beach County shall have the authority to audit the records of any municipality to ensure the procedures and standards of this section are being met by the municipality. Public reports on impact fees shall be provided by the Impact Fee Coordinator on at least a semi-annual basis and distributed to each municipality. Such

reports will account for receipts of impact fees for each impact fee, by benefit zone and municipality, and encumbrances and expenditures of the funds by zone.

5. **Impact Fee Coordinator to furnish such information and advice to the municipalities.** The Impact Fee Coordinator shall furnish such information and advice to the municipalities necessary to ensure proper collection, remittance, accounting, controls and auditability.

H. **Benefit zones.**

1. **Establishment of benefit zones.** One or more impact fee benefit zones are hereby established for each impact fee component. The benefit zones are identified in Secs. 10.2-10.8 for each impact fee component.

2. **Establishment of trust funds.** Separate impact fee trust funds for each impact fee benefit zone for each impact fee component are hereby established for the purpose of earmarking all impact fees so that all expenditures of impact fees sufficiently benefit new development in the benefit zone from which the impact fees were collected.

I. **Use of impact fees.**

1. **Investment in interest bearing accounts.** All impact fees on deposit in the trust funds shall be invested in interest bearing sources, and the income derived shall be applied to the applicable trust fund.

2. **Limitation within benefit zones.** Impact fees collected shall be used exclusively for new capital facilities for the impact fee component within the impact fee benefit zone from which the fees were collected, except that if an impact or traffic analysis made by a professional experienced in impact analysis and approved by the Impact Fee Coordinator demonstrates that a planned development substantially and directly impacts the need to expand the capacity of specific public capital facilities in another benefit zone, then impact fees paid by that planned development may be expended on those specific capital facilities in another benefit zone.

3. **Use of road impact fee funds.** Road impact fees collected in accordance with this article shall be used solely for the purpose of construction or improving roads, streets, highways and bridges on the major road network system, including but not limited to:

(1) Design and construction plan preparation;

(2) Right-of-way acquisition;

(3) Construction of new through lanes;

(4) Construction of new turn lanes;

(5) Construction of new bridges;

(6) Construction of new drainage facilities in conjunction with new roadway construction;

(7) Purchase and installation of traffic signalization;

(8) Construction of new curbs, medians and shoulders;

(9) Relocating utilities to accommodate new roadway construction

4. **Expenditures shall benefit new development**. Impact fees shall be used only for capital facility costs for which the impact fees are levied and which add capacity needed to serve new development.

5. **Non lapsing**. The respective trust funds shall be non-lapsing.

6. **Annual capital facility programs**. Annually, the County Administrator shall present to the Board of County Commissioners a proposed capital improvement program for each public facility for which an impact fee is charged, assigning funds, including any accrued interest, from the several impact fee trust funds to specific improvement projects and related expenses. Monies, including any accrued interest not assigned in any fiscal period shall be retained in the same impact fee trust funds until the next fiscal period, except as provided by the refund provisions of this section.

J. **Refunds**.

1. **General**.

a. **Non-commencement of construction**. If a building permit or other permit requiring payment of an impact fee expires or is canceled or revoked, the structure has not been completed, and no certificate of occupancy has been issued, or if the permit is modified prior to completion of construction so as to change the land use or structure to one of lower impact than that on which the permit was originally issued, and the impact fee paid for approval of the permit has not been encumbered or spent by Palm Beach County, then the feepayer or a successor in interest shall be entitled to a refund if an application for refund is submitted within one (1) year of the permit's expiration, cancellation, revocation or modification, or of the event giving rise to the refund and within three (3) years of the payment of the impact fee, except that Palm Beach County shall retain an additional two percent (2%) of the impact fee to offset the costs of administering the refund.

b. **Untimely encumbrance**.

(1) **Untimely encumbrance**. If Palm Beach County fails to encumber the impact fees paid by the feepayer by the end of the calendar quarter immediately following six (6) years from the date the impact fees are paid, and fails to spend the impact fee within nine (9) years of the end

of the calendar quarter in which the impact fees are paid, the feepayer or a successor in interest shall be entitled to a refund except that Palm Beach County shall retain an additional two percent (2%) of the impact fee to offset the costs of refund. The feepayer or successor in interest shall submit an application for refund to the Impact Fee Coordinator pursuant to Sec. 10.1.J.2, within one (1) year following the end of the calendar quarter in which the right to a refund occurs. In determining whether the fee paid by the feepayer has been encumbered or spent, monies in the trust fund shall be considered to be expended on a first in, first out basis; that is, the first fees paid shall be considered the first monies withdrawn.

(2) **Notification of potential refund.** If more than five percent (5%) of the impact fees collected in any fiscal year within any trust fund are unencumbered after the end of the sixth fiscal year following the fiscal year in which the impact fees were collected, Palm Beach County shall notify the present owners of lands for which the impact fees were paid of the possibility of a refund. Any claim for a refund of impact fees shall be deemed waived if application for a refund is not received within six (6) months of the mailing or delivery of such notice.

2. **Procedure to obtain refund.**

a. **Submission of application.** An application for refund shall be submitted to the Impact Fee Coordinator.

b. **Contents of application.** The application shall be in a form established by the Impact Fee Coordinator and made available to the public, and shall contain the following:

(1) A copy of the dated receipt issued for payment of the impact fee;

(2) If the refund is requested due to non-commencement of construction, and the permit was issued by Palm Beach County, the building permit or other permit for which the impact fees were paid;

(3) If the refund is requested due to non-commencement of construction, evidence that the applicant is the feepayer or a successor in interest to the feepayer;

(4) If the refund is requested due to the County's failure to encumber or spend funds, a notarized sworn statement that the applicant is the current owner of the land for which the impact fee was paid, a certified copy of the current deed, and a copy of the most recent ad valorem tax bill;

(5) If relevant, proof from the municipality that the permit has been canceled, and a copy of the permit issued by the municipality;

(6) If relevant, the date on which the municipality forwarded the funds to Palm Beach County.

c. **Determination of sufficiency.** The Impact Fee Coordinator shall determine if the application is sufficient within five (5) working days.

(1) If the Impact Fee Coordinator determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No further action shall be taken on the application until the deficiencies are remedied.

(2) If the application is determined sufficient, the Impact Fee Coordinator shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

d. **Action by Impact Fee Coordinator.** Within forty-five (45) working days after the application is determined sufficient, the Impact Fee Coordinator shall review and approve or deny the application based upon the standards in Sec. 10.1.J.1, above.

e. **Appeal.**

(1) Any feepayer or a successor in interest may appeal the decision of the Impact Fee Coordinator by filing an appeal with the Impact Fee Appeals Board within fifteen (15) working days of a decision by the Impact Fee Coordinator.

(2) The Impact Fee Appeals Board shall notify the applicant within ten (10) working days of the hearing and invite the applicant or the applicant's representative to attend the hearing. The Impact Fee Appeals Board shall make a decision on the appeal within sixty (60) working days of its filing.

(3) At the hearing, the Impact Fee Appeals Board shall provide the applicant, County staff, and any other interested person, an opportunity to present testimony and evidence. The Impact Fee Appeals Board shall affirm the decision of the Impact Fee Coordinator, or modify or reverse the decision of the Impact Fee Coordinator, based on the standards in Sec. 10.1.J.1 or 2. The Impact Fee Appeals Board shall reverse the decision of the Impact Fee Coordinator only if there is substantial competent evidence presented at the hearing that the Impact Fee Coordinator erred from the standards in Sec. 10.1.J.1 or 2, whichever is appropriate.

K. Credits.

1. General. Credit against impact fees shall be given for the following, except as limited or permitted by specific provisions of this section.

   a. Redevelopment of existing building/change in land use.

      (1) Where alteration, expansion or replacement of a building or unit, or a change in land use existing on January 1, 1989, or presently existing, which involves any increase in the number of units or square footage, or a change in use resulting in new impacts on a capital facility for which the impact fee is assessed, credit shall be given for the number of existing units or square feet based upon the previous land use and impact fees shall only be assessed on the increased impact.

      (2) In the case of an addition to an existing residential building, 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 provide the certification setting forth the square footage of an existing building.

   b. Special district assessments. A credit shall be given against the impact fee component where the same new capital facility is provided by a special district rather than Palm Beach County and the feepayer is assessed for the new capital facility.

   c. In-kind contributions. In-kind contributions made by a development to Palm Beach County shall be credited against the development's impact fees, but only to the impact fee component for which the in-kind contribution is made. For example, credits received for a park contribution may be applied only against park impact fees and not against fire-rescue impact fees. No credit shall be given for in-kind contributions that are not new capital facilities or which were not made for capital facilities costs.

      (1) Time for giving of credit. Credit shall be given for land at such time as marketable title in fee simple absolute is conveyed to the County, free of encumbrances with such documentation and requirements set by the Board of County Commissioners or the County Administrator or the acceptance of real property. Credit shall be given for personal property at such time as a bill of sale absolute and, where applicable, title for such property is delivered to the County. Credit shall be given at such time as the funds are delivered to the County.

(2) **In-kind contributions made prior to October 1, 1989, for facilities other than roads.** In the case of in-kind contributions other than road facilities made to Palm Beach County prior to October 1, 1989, and except as specifically provided in the development order or Development Agreement, the value of the in-kind contribution at the time of its conveyance, dedication, construction, placement, delivery or remittance shall be apportioned between building permits for which a complete application was made prior to October 1, 1989 and building permits in the development which remain to be issued and for which no complete application was made as of October 1, 1989. The portion of the value allocated to building permits made on or after October 1, 1989, shall be adjusted to its present value as of October 1, 1989, using a compound interest rate of six (6) percent per year, compounded quarterly. Only that portion of the contribution allocated to building permits for which a complete application was filed on or after October 1, 1989, shall be credited against impact fees. For the purpose of apportioning the contribution between uses and square footage or dwelling units, the number of permits shall be determined using the most recently approved master plan or site plan, the size and use of the buildings proposed for the remainder of the development, the effect of other land development regulations on the feepayer's ability to complete the development as proposed, and other information deemed relevant by the Impact Fee Coordinator. If the conveyance, dedication, construction, placement, delivery or remittance was required to be made prior to October 1, 1989, pursuant to a condition in a development order, a Development Agreement, or otherwise required by a local government, the value of the conveyance shall be established as of the required date of contribution. The present value of the contribution as of October 1, 1989 shall be established at six (6) percent per year from the required date of the contribution. The apportionment of the value of the contribution to building permits shall be based on the date on which the contribution was to have been made. At the option of the feepayer, any remaining credit may be adjusted by the percentage change in the cost of the capital facility when Palm Beach County reviews capital facilities costs in the review and update process.

(3) **In kind contributions for road facilities prior to March 1, 1989.** In-kind contributions for road facilities from developments in municipalities not previously subject to road impact fees shall be apportioned according to the provisions in Sec. 10.1.K.1.c.(2) except that the effective date for apportionment of the credit shall be March 1, 1989.

(4) **In-kind contributions made after October 1, 1989, except road facility contributions.** The standards of this section shall apply to the valuation of any in-kind contribution made after October 1, 1989, except as provided elsewhere in this article.

(5) **Valuation of In Kind Road Facility Contribution.** If the value of the in-kind contribution increase (as evidenced by an increase in Road Impact Fee rates) between the time of the in-kind contribution and the time of the issuance of a building permit, the developer may apply for additional credit by submitting an independent calculation to the Impact Fee Coordinator, for review by the Palm Beach County Engineering Department. Such application must be made within six (6) months of the effective date of a road impact fee increase, or this right shall be waived. The independent calculation must be prepared by a state registered engineer or a professional in impact analysis and must demonstrate that the current cost of reproducing the road construction has increased and therefore the value of the in-kind contribution has correspondingly increased. Any additional credit shall not exceed the percentage of increase of the road impact fee.

d. **Credits for contributions to local governments other than Palm Beach County.** Contributions of or for new capital facilities to a local government other than Palm Beach County or by a special district may be given only upon an application to the Impact Fee Coordinator. Approval of the Impact Fee Coordinator must be obtained prior to the contribution for all such contributions made after October 1, 1989. The Impact Fee Coordinator, after consultation with the agency charged with supervising the provision of the new capital facility, shall determine whether the contribution shall receive a credit based on the following standards:

(1) Consistency with the Comprehensive Plan as to the cost, location, and size of the facility and its timing;

(2) The amount that would be spent by Palm Beach County if it were to construct the same new capital facility;

(3) The extent to which the new capital facility provides the same or similar functions as the new capital facility for which the credit is sought;

(4) The extent of control that Palm Beach County has in ensuring that the new capital facility will continue to provide the same or similar functions;

(5) Whether the new capital facility is open or available to all persons regardless of residency;

(6) The short and intermediate-range plans of the agency which would receive the impact fee funds regarding the timing, location, cost and size of the new capital facility;

(7) The impact of encouraging new development in the area that would be served by the new capital facility or the ability of local government or the special district to provide other needed infrastructure and services;

(8) The pattern of development and its relationship to other development, infrastructure, and resources that could result from encouraging new development; and

(9) The budget of Palm Beach County and other local governments, and the allocation of revenues within those local governments.

e. Special provisions for park credits. No credit shall be given for park contributions or dedications required by Sec. 7.12, Community and neighborhood park recreation standards. No such contribution or dedication shall be used for County District, Regional or Beach parks. Contributions for County parks resulting from Art. 11, Adequate Public Facility Standards, shall be credited as provided above. In-kind contributions of capital facilities which are not County District, Regional, or Beach parks shall be provided partial credit as follows:

(1) Seventy-five (75) percent of the value at the time of conveyance, dedication, construction, placement, delivery or remittance shall be credited in accordance with the other provisions of this section for contributions for or of County parks less than sixty (60) acres but equal to or more than forty (40) acres;

(2) Fifty (50) percent of the value at the time of conveyance, dedication, construction, placement, delivery or remittance shall be credited in accordance with the other provisions of this section for contributions for or of County parks less than forty (40) acres but equal to or more than twenty (20) acres;

(3) Twenty-five (25) percent of the value at the time of conveyance, dedication, construction, placement, delivery or remittance shall be credited in accordance with the other provisions of this section for contributions for or of County parks less than twenty (20) acres.

f. Special provisions for school site credits.

(1) General. Dedications of land for use as school sites may, if accepted by the School Board, be credited against school impact fees. The School Board or the Superintendent shall have responsibility for evaluating, according to the standards contained herein, a site proposed

for dedication under this subsection. An application for a site dedication credit shall be in a form prescribed by Palm Beach County, and shall contain such information as to guide the School Board and Superintendent in reviewing the application for consistency with these standards. If any credit against any school site impact fees is given, the dedication shall be credited in an amount equal to its full fair market value at the time of dedication, and shall not exceed the full dedication cost. Sites proposed for dedication shall comply with, and be reviewed considering, the following standards:

(a) The site proposed shall be located so as to provide the greatest access to students. If a single development will not generate sufficient students to fill a school, the site should be located so as to be easily accessible to students from neighboring areas.

(b) The site proposed shall create an appropriate distance between existing or planned schools: one (1) mile for elementary schools, two (2) miles for middle schools, and three (3) miles for high schools.

(c) The site proposed and surrounding areas shall be free from health or safety hazards and shall be protected against noise, air pollution and/or odors.

(d) The site proposed shall be accessible from two (2) different streets, with one (1) street preferably a collector street. This standard shall be waived for elementary or middle schools if access is available on one (1) street from two (2) directions. Sites should not be located on arterial roads; however, if such sites are proposed, they may be considered if provision is made for the construction of overpasses or pedestrian lights. The construction of median cuts, left turn lanes and storage lanes shall be practicable to facilitate access to the proposed site by buses and automobiles.

(e) The site proposed shall be located so as to facilitate safe transit to neighboring areas by sidewalks, walkways and/or bike paths.

(f) The site proposed shall be evaluated for the availability of central water and sewer, electricity and phone services and for its proximity to fire hydrants.

(g) All proposed sites shall allow at least two (2) separate entrances for school buses and staff; high school sites shall also provide separate entrances for students and parent drop off. All sites shall allow for adequate parking for buses;

elementary and middle school sites shall allow for parking for one hundred twenty (120) staff automobiles, high schools sites shall allow for two hundred twenty five (225) staff and four hundred twenty five (425) student parking spaces.

(h) In addition to providing sufficient area to accommodate on site retention of stormwater, proposed school sites shall be of the following minimum sizes and shall have the following minimum dimensions: elementary schools shall have a minimum site size of fifteen (15) acres, with a minimum seven hundred eighty (780) feet of frontage and eight hundred forty (840) feet of depth; middle schools shall have a minimum site size of twenty-five (25) acres, with a minimum frontage of eight hundred (800) feet and a depth of one thousand three hundred and sixty (1360) feet; high schools shall have a minimum site size of fifty (50) acres, with a minimum frontage of one thousand two hundred (1200) feet and a depth of one thousand eight hundred (1800) feet.

(i) When the school site is located within a residential development, provision of a circulation system or turnaround area with a ninety (90) foot diameter shall be available so that buses need not back up to leave the development. Bus stop locations, preferably located adjacent to a public area such as a park, shall be provided so that buses do not have to enter the development.

(j) The site shall be examined for consistency of the proposed use with applicable comprehensive plans, land development regulations, and concurrency provisions.

(2) Consideration and acceptance by School Board. All applications for a school site credit shall be reviewed and a response issued by the Superintendent or the School Board within sixty (60) working days of the submission of the application. If the request is approved, the Superintendent shall notify the Impact Fee Coordinator, and if other than Palm Beach County, the local government issuing the development permit. The Impact Fee Coordinator shall determine the value and the credit. No credit shall be given until the site is conveyed to the School Board in accordance with this section.

(3) **Conveyance to the School Board.** To convey sites to the School Board, the feepayer shall provide, at no cost to the School Board and in a form approved by the School Board's attorney, the following documents:

(a) A complete and current abstract of title together with a title insurance commitment to insure the property in a sum agreed to by the School Board, such to be delivered to the School Board;

(b) A warranty deed, along with sufficient funds to record the deed, to be delivered to the School Board or the title insurance agent;

(c) Evidence that taxes for the current year have been placed in escrow pursuant to Sec. 196.296, Fla. Stat., as amended, or that the taxes have been paid;

(d) A completed title insurance policy issued subsequent to the recording of the deed and the escrow of taxes.

(4) **Return of School Site.** In the event that a site accepted by the School Board is not utilized within ten (10) years of its conveyance, the grantor may request that the land be reconveyed by the School Board to the grantor, in which case the School Board shall reconvey the land.

g. **Special provisions for road credits.**

(1) **General.** In lieu of paying the road impact fee, the feepayer may elect to propose construction of a portion of the major road network system in addition to any required site related improvements. The feepayer shall submit the proposed construction along with a certified engineer's cost estimate to the Impact Fee Coordinator, with a copy to the County Engineer. The County Engineer shall determine if the proposed construction is a desirable and appropriate substitute for the road impact fee, based on the following criteria:

(1) The proposed road construction must be on the major road network;

(2) The proposed road construction must not be site-related improvements;

(3) The proposed road construction must be required to meet the requirements of Traffic Performance Standards for the development as defined in Sec. 7.9.

Exceptions to criterion #3, above, may only be made upon approval of the board of County Commissioners. No exceptions shall be made to criteria #1 and #2.

If the proposed road construction meets the criteria for credit, the County Engineer shall determine the amount of credit to be given, and the timetable for completion of the proposed construction, and shall recommend the approval and the amount of credit to the Impact Fee Coordinator. The amount of credit shall be the amount approved by the County Engineer based upon the certified cost estimate for the creditable work. Where the proposed construction is a major project (defined as construction cost in excess of $200,000) these funds shall be provided to Palm Beach County. Using these funds, the project shall be administered as to plans, right-of-way and construction by Palm Beach County. This procedure whereby the construction of major thoroughfare plan projects will be accomplished by Palm Beach County may be waived only by the Board of County Commissioners upon the recommendation of the County Engineer.

(2) Credits for construction within site. Where a proposed major road network runs through a development and where the feepayer is required to construct two (2) lanes of the road, the feepayer may elect, upon submission of a certified cost estimate to the Impact Fee Coordinator and upon the recommendation of the County Engineer and the approval of the Impact Fee Coordinator, to construct more than two (2) lanes and receive credit for the additional cost of the additional lanes constructed. In addition to all other site-related improvements, the primary two (2) lanes within the site's boundaries shall be considered site-related.

(3) Other costs credited.

(a) Off-site right-of-way acquisition. The cost of major road network rights-of-way acquired at the cost of the feepayer shall be credited where the right-of-way is outside of the site, and not site related. The costs shall be approved by the County Engineer and the Impact Fee Coordinator based upon the appraised value of the land acquired. The credit shall not exceed the appraiser's approved value, except in the event that a settlement of, or in lieu of, condemnation results in payment in excess of the appraiser's value, in which case credit shall not exceed the amount paid. Cost incurred by Palm Beach County in acquiring such off-site right-of-way which are paid for by the feepayer shall be credited to the feepayer.

(b) **Plan preparation**. Costs of plan preparation for major road network construction shall be credited if approved by the County Engineer and the Impact Fee Coordinator based upon reasonable costs associated with the preparation of such plans.

(c) **Costs creditable.** Credit shall be given only for the cost of plans preparation, off-site right-of-way acquisition, and/or construction.

h. **Application of credits**. The credit shall be applied to the respective full impact fee associated with the first building permits issued for the development for which complete application was made on or after October 1, 1989, or if the credit is for roads, the date upon which the road impact fee was effective within the development, until the credit is exhausted. After such exhaustion the remainder of the impact fee for which a credit was obtained shall be paid in full. The credit shall be calculated and applied in dollar amounts and not in number of permits.

i. **Special allocation of credits**. In the case of an amendment to a planned development that involves only a portion of the planned development for which an in-kind contribution is made, the credit, at the option of the feepayer making the contribution, may be applied only to that portion of the planned development for which the in-kind contribution was made. Notwithstanding any other provisions of this subsection, if fair share contributions have been prorated or assigned to a portion of a development through past practices, no application for a special allocation must be made, provided that a covenant is executed in accordance with Sec. 10.1.L.

(1) **Application for special allocation**. Except as specifically provided in a development order, any feepayer who made an in-kind contribution of road facilities for a planned development may petition the Board of County Commissioners for a special allocation of the respective impact fee credit within the planned development by filing an application with the Impact Fee Coordinator. For in-kind contributions made after October 1, 1989, the application shall be made prior to effecting the contribution. Only one (1) special allocation shall be made for each planned development. The application shall state the reasons for which the special allocation is desired and shall contain all deeds and sale/purchase of owners in the undeveloped portions of the planned development. The applicant shall pay the cost of notifying all owners of undeveloped land in the planned development by certified mail, return receipt requested. The Board of County Commissioners may establish a reasonable fee for the processing of applications for special allocation, and, if a special allocation is granted, require a covenant to be made in accordance with Sec. 10.1.L.

(2) Covenant. If the applicant does not own all the land in the planned development at the time of the application for a special allocation, the applicant shall execute a covenant supported by separate consideration from Palm Beach County applied to the land benefitted by the special allocation. Such covenant shall provide that the owner, heirs and assigns shall indemnify and defend Palm Beach County against any and all claims for credits not received by other owners or developers of undeveloped land within the planned development. A joinder and consent of the mortgagee of the land, supported by consideration from Palm Beach County, shall also be executed in recordable form. The Impact Fee Coordinator shall record the documents in the official records of the Clerk of the Circuit Court for Palm Beach County.

2. Appeal.

a. Any applicant may appeal the decision of the Impact Fee Coordinator by filing an appeal with the Impact Fee Appeals Board within fifteen (15) working days of a decision by the Impact Fee Coordinator.

b. The Impact Fee Appeals Board shall make a decision on the appeal within sixty (60) working days of its filing. The Impact Fee Appeals Board shall notify the applicant within fifteen (15) working days of the hearing and invite the applicant or the applicant's representative to attend the hearing.

c. At the hearing, the Impact Fee Appeals Board shall provide the applicant, County staff, and any other interested persons, an opportunity to present testimony and evidence. The Impact Fee Appeals Board shall reverse the decision of the Impact Fee Coordinator only if there is substantial competent evidence in the record that the Impact Fee Coordinator erred from the standards in Sec. 10.1.K.

L. Covenants. Where necessary to ensure compliance with the provisions of this article, the Impact Fee Coordinator shall require that a covenant be executed by the feepayer holding the fee simple interest in the land, and mortgagee as appropriate. The covenant shall recite this article and the facts and reasons underlying its execution. It shall set forth restrictions on the land and the terms and conditions under which it may be released.

M. Vesting. Only the existence of a building permit that has not expired, lapsed, or been revoked, canceled or abandoned shall vest a feepayer against any changes in the amount of impact fees exacted. No vesting against changes in the amount of impact fees shall result from the issuance of any development order, other than as set forth in this subsection.

N. Action if impact fees are unpaid.

1. Check is invalid. In the event impact fee funds which were paid by check, draft or other negotiable instrument do not clear, the building permit or development order authorizing the development for which impact fees were paid shall be suspended. The

(b) **Plan preparation**. Costs of plan preparation for major road network construction shall be credited if approved by the County Engineer and the Impact Fee Coordinator based upon reasonable costs associated with the preparation of such plans.

(c) **Costs creditable.** Credit shall be given only for the cost of plans preparation, off-site right-of-way acquisition, and/or construction.

h. **Application of credits**. The credit shall be applied to the respective full impact fee associated with the first building permits issued for the development for which complete application was made on or after October 1, 1989, or if the credit is for roads, the date upon which the road impact fee was effective within the development, until the credit is exhausted. After such exhaustion the remainder of the impact fee for which a credit was obtained shall be paid in full. The credit shall be calculated and applied in dollar amounts and not in number of permits.

i. **Special allocation of credits**. In the case of an amendment to a planned development that involves only a portion of the planned development for which an in-kind contribution is made, the credit, at the option of the feepayer making the contribution, may be applied only to that portion of the planned development for which the in-kind contribution was made. Notwithstanding any other provisions of this subsection, if fair share contributions have been prorated or assigned to a portion of a development through past practices, no application for a special allocation must be made, provided that a covenant is executed in accordance with Sec. 10.1.L.

(1) **Application for special allocation**. Except as specifically provided in a development order, any feepayer who made an in-kind contribution of road facilities for a planned development may petition the Board of County Commissioners for a special allocation of the respective impact fee credit within the planned development by filing an application with the Impact Fee Coordinator. For in-kind contributions made after October 1, 1989, the application shall be made prior to effecting the contribution. Only one (1) special allocation shall be made for each planned development. The application shall state the reasons for which the special allocation is desired and shall contain all deeds and sale/purchase of owners in the undeveloped portions of the planned development. The applicant shall pay the cost of notifying all owners of undeveloped land in the planned development by certified mail, return receipt requested. The Board of County Commissioners may establish a reasonable fee for the processing of applications for special allocation, and, if a special allocation is granted, require a covenant to be made in accordance with Sec. 10.1.L.

(2) Covenant. If the applicant does not own all the land in the planned development at the time of the application for a special allocation, the applicant shall execute a covenant supported by separate consideration from Palm Beach County applied to the land benefitted by the special allocation. Such covenant shall provide that the owner, heirs and assigns shall indemnify and defend Palm Beach County against any and all claims for credits not received by other owners or developers of undeveloped land within the planned development. A joinder and consent of the mortgagee of the land, supported by consideration from Palm Beach County, shall also be executed in recordable form. The Impact Fee Coordinator shall record the documents in the official records of the Clerk of the Circuit Court for Palm Beach County.

2. Appeal.

a. Any applicant may appeal the decision of the Impact Fee Coordinator by filing an appeal with the Impact Fee Appeals Board within fifteen (15) working days of a decision by the Impact Fee Coordinator.

b. The Impact Fee Appeals Board shall make a decision on the appeal within sixty (60) working days of its filing. The Impact Fee Appeals Board shall notify the applicant within fifteen (15) working days of the hearing and invite the applicant or the applicant's representative to attend the hearing.

c. At the hearing, the Impact Fee Appeals Board shall provide the applicant, County staff, and any other interested persons, an opportunity to present testimony and evidence. The Impact Fee Appeals Board shall reverse the decision of the Impact Fee Coordinator only if there is substantial competent evidence in the record that the Impact Fee Coordinator erred from the standards in Sec. 10.1.K.

L. Covenants. Where necessary to ensure compliance with the provisions of this article, the Impact Fee Coordinator shall require that a covenant be executed by the feepayer holding the fee simple interest in the land, and mortgagee as appropriate. The covenant shall recite this article and the facts and reasons underlying its execution. It shall set forth restrictions on the land and the terms and conditions under which it may be released.

M. Vesting. Only the existence of a building permit that has not expired, lapsed, or been revoked, canceled or abandoned shall vest a feepayer against any changes in the amount of impact fees exacted. No vesting against changes in the amount of impact fees shall result from the issuance of any development order, other than as set forth in this subsection.

N. Action if impact fees are unpaid.

1. Check is invalid. In the event impact fee funds which were paid by check, draft or other negotiable instrument do not clear, the building permit or development order authorizing the development for which impact fees were paid shall be suspended. The

local government which issued the building permit or development order, shall send by certified mail notice, to the applicant using a form provided by the County. If the impact fees, together with any charges for the checks not clearing, are not paid within ten (10) working days following mailing of the notice, the building permit or development order shall be of no further force and effect for purposes of this Code and a stop work order shall be issued and not lifted until such time as the fair share fees are paid.

2. Lien. If through error, omission, or intent, impact fees are not paid in full, the amount unpaid, together with statutory interest accruing from thirty (30) calendar days following the date written notice by certified mail, return receipt requested, is sent to the developer, permittee, or the then-present property owner, shall be a lien against the land containing the development for which the impact fees are due. Notice of the lien shall be recorded in the official records of the Clerk of the Circuit Court for Palm Beach County. The lien shall have priority over all liens, mortgages and encumbrances, except taxes. No lien shall be recorded later than three (3) years following the date on which the building permit is issued for the development against which impact fees are due, although the debt shall remain. If the lien remains unpaid for more than thirty (30) calendar days following the recording of the notice, it may be foreclosed in the manner provided by state law for the foreclosure of mortgages on real property.

3. Withholding development orders. In the event that any impact fee is unpaid, no further development order shall be issued for the land for which the impact fees remain unpaid, and no development order shall be issued until any previously owed impact fees, together with day interest owing, along with any current impact fees, are paid.

4. Notification construction industry licensing board. In the event that any building permittee who is a contractor certified by the Palm Beach County Construction Licensing Board fails to pay an impact fee for which the permittee is responsible, the County Attorney shall file a verified written complaint with the Palm Beach County Construction Licensing Board recommending disciplinary action as is provided by the laws of Florida, Chapter 489, as amended. The verified complaint shall contain a summary of the fees owed and the efforts made by Palm Beach County to collect the fees.

SEC. 10.2 COUNTY DISTRICT, REGIONAL, AND BEACH PARKS IMPACT FEE.

A. Imposition of fee. Impact fees are imposed upon all land uses creating an impact on County District, Regional, and Beach parks in accordance with Sec. 10.1.D and this section.

B. Schedule of lower fees for municipalities. Special provisions establishing a schedule of lower fees for municipalities providing like capital facilities are set forth in this section pursuant to section 1.3(2) of the county charter. For purposes of this section, "like capital facilities" is broadly construed so as to include partial "credits" for municipal parks which are not district, regional or beach parks but which perform a similar function.

Municipal schedules are based upon a sliding scale depending on the size and function of the municipal park facilities and the extent of access to beaches based upon the shoreline management plan standards.

The permutations of the schedules are as follows:

	District	Beach	Regional
Unincorporated	100%	100%	100%
Schedule A	100%	100%	100%
Schedule B	75%	100%	100%
Schedule C	50%	100%	100%
Schedule D	25%	100%	100%
Schedule E	0%	100%	100%
Schedule F	100%	75%	100%
Schedule G	75%	75%	100%
Schedule H	50%	75%	100%
Schedule I	25%	75%	100%
Schedule J	0%	75%	100%
Schedule K	100%	50%	100%
Schedule L	75%	50%	100%
Schedule M	50%	50%	100%
Schedule N	25%	50%	100%
Schedule O	0%	50%	100%
Schedule P	100%	25%	100%
Schedule Q	75%	25%	100%
Schedule R	50%	25%	100%
Schedule S	25%	25%	100%
Schedule T	0%	25%	100%
Schedule U	100%	0%	100%
Schedule V	75%	0%	100%
Schedule W	50%	0%	100%
Schedule X	25%	0%	100%
Schedule Y	0%	0%	100%

Where the percentage shown in each column represents the percentage of the total net cost of the park impact fee which must be paid for district, beach and regional parks.

C. Fee schedule. The fee schedule for County District, Regional and Beach parks is established in Tables 10.2-1 through 10.2-14. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.2-1
PARKS AND RECREATION FEE SCHEDULE
FOR UNINCORPORATED PALM BEACH COUNTY

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 554.93	$173.63	$ 381.30	$ 19.06	$ 362.24
Dwelling unit, 801 - 1,399 sq. ft.	2.007	676.64	185.45	491.19	24.56	466.63
Dwelling unit, 1,400 - 1.999 sq. ft.	2.526	851.61	202.44	649.17	32.46	616.71
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	1,026.59	219.42	807.17	40.36	766.81
Dwelling unit, 2,600 sq. ft. and over	3.845	1,296.30	245.61	1050.69	52.53	998.16
Hotel/Motel Per Room	0.875	295.00	148.40	146.60	7.33	139.27

TABLE 10.2-2
PARKS AND RECREATION FEE SCHEDULE
FOR SCHEDULE "A" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 554.93	$176.63	$ 381.30	$ 19.06	$ 362.24
Dwelling unit, 801 - 1,399 sq. ft.	2.007	676.64	185.45	491.19	24.56	466.63
Dwelling unit, 1,400 - 1.999 sq. ft.	2.526	851.61	202.44	649.17	32.46	616.71
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	1,026.59	219.42	807.17	40.36	766.81
Dwelling unit, 2,600 sq. ft. and over	3.845	1,296.30	245.61	1050.69	52.53	998.16
Hotel/Motel Per Room	0.875	295.00	148.40	146.60	7.33	139.27

*Schedule "A" municipalities consist of Atlantis, Cloud Lake, Glen Ridge, Golf Village, Golfview, Haverhill, Hypoluxo, Lake Clark Shores, and Mangonia Park.

TABLE 10.2-3
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "B" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 529.23	$173.63	$ 355.60	$ 17.78	$ 337.82
Dwelling unit, 801 - 1,399 sq. ft.	2.007	645.30	185.45	459.85	22.99	436.86
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	812.17	202.44	609.73	30.49	579.24
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	979.05	219.42	759.63	37.98	721.65
Dwelling unit, 2,600 sq. ft. and over	3.845	1,236.27	245.61	990.66	49.53	941.13
Hotel/Motel Per Room	0.875	281.33	148.40	132.93	6.65	126.28

*Schedule "B" municipalities consist of Greenacres, Lake Park, and Palm Springs.

TABLE 10.2-4
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "C" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 503.54	$173.63	$ 329.91	$ 16.50	$ 313.41
Dwelling unit, 801 - 1,399 sq. ft.	2.007	613.98	185.45	428.53	21.43	407.10
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	772.75	202.44	570.31	28.52	541.79
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	931.53	219.42	712.11	35.61	676.50
Dwelling unit, 2,600 sq. ft. and over	3.845	1,176.26	245.61	930.65	46.53	884.12
Hotel/Motel Per Room	0.875	267.68	148.40	119.28	5.96	113.32

*Schedule "C" municipalities consist of Palm Beach Gardens and Royal Palm Beach.

TABLE 10.2-5
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "E" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 452.15	$173.63	$ 278.52	$ 13.93	$ 264.59
Dwelling unit, 801 - 1,399 sq. ft.	2.007	551.31	185.45	365.86	18.29	347.57
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	693.88	202.44	491.44	24.57	466.87
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	836.44	219.42	617.02	30.85	586.17
Dwelling unit, 2,600 sq. ft. and over	3.845	1,056.20	245.61	810.59	40.53	770.06
Hotel/Motel Per Room	0.875	240.36	148.40	91.96	4.60	87.36

*Schedule "E" municipality consists of West Palm Beach.

TABLE 10.2-6
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "F" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 506.66	$173.63	$ 333.03	$ 16.65	$ 316.38
Dwelling unit, 801 - 1,399 sq. ft.	2.007	617.78	185.45	432.33	21.62	410.71
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	777.53	202.44	575.09	28.75	546.34
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	937.29	219.42	717.87	35.89	681.98
Dwelling unit, 2,600 sq. ft. and over	3.845	1,183.54	245.61	937.93	46.90	891.03
Hotel/Motel Per Room	0.875	269.34	148.40	120.94	6.05	114.89

*Schedule "F" municipalities consist of Gulfstream, Highland Beach, Manalapan, and South Palm Beach.

TABLE 10.2-7
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "I" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 429.57	$173.63	$ 255.94	$ 12.80	$ 243.14
Dwelling unit, 801 - 1,399 sq. ft.	2.007	523.79	185.45	338.34	16.92	321.42
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	659.24	202.44	456.80	22.84	433.96
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	794.68	219.42	575.26	28.76	546.50
Dwelling unit, 2,600 and Over sq. ft.	3.845	1,003.47	245.61	757.86	37.89	719.97
Hotel/Motel Per Room	0.875	228.36	148.40	79.96	4.00	75.96

*Schedule "I" municipality consists of Tequesta.

TABLE 10.2-8
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "J" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 403.87	$173.63	$ 230.24	$ 11.51	$ 218.73
Dwelling unit, 801 - 1,399 sq. ft.	2.007	492.45	185.45	307.00	15.35	291.65
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	619.80	202.44	417.36	20.87	396.49
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	747.14	219.42	527.72	26.39	501.33
Dwelling unit, 2,600 sq. ft. and over	3.845	943.44	245.61	697.83	34.89	662.94
Hotel/Motel Per Room	0.875	214.70	148.40	66.30	3.31	62.99

*Schedule "J" municipality consists of North Palm Beach.

TABLE 10.2-9
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "K" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 458.39	$173.63	$ 284.76	$ 14.24	$ 270.52
Dwelling unit, 801 - 1,399 sq. ft.	2.007	558.92	185.45	373.47	18.67	354.80
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	703.46	202.44	501.02	25.05	475.97
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	847.99	219.42	628.57	31.43	597.14
Dwelling unit, 2,600 sq. ft. and over	3.845	1,070.78	245.61	825.17	41.26	783.91
Hotel/Motel Per Room	0.875	243.68	148.40	95.28	4.76	90.52

*Schedule "K" municipality consists of Ocean Ridge.

TABLE 10.2-10
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "P" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 355.60	$173.63	$ 181.97	$ 9.10	$ 172.87
Dwelling unit, 801 - 1,399 sq. ft.	2.007	433.59	185.45	248.14	12.41	235.73
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	545.72	202.44	343.28	17.16	326.12
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	657.84	219.42	438.42	21.92	416.50
Dwelling unit, 2,600 sq. ft. and over	3.845	830.67	245.61	585.06	29.25	555.81
Hotel/Motel Per Room	0.875	189.04	148.40	40.64	2.03	38.61

*Schedule "P" municipalities consist of Briny Breezes, Juno Beach, Jupiter Inlet Colony, and Palm Beach Shores.

TABLE 10.2-11
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "U" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 361.84	$173.63	$ 188.21	$ 9.41	$ 178.80
Dwelling unit, 801 - 1,399 sq. ft.	2.007	441.20	185.45	255.75	12.79	242.96
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	555.30	202.44	352.86	17.64	335.22
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	669.39	219.42	449.87	22.50	427.47
Dwelling unit, 2,600 sq. ft. and over	3.845	845.26	245.61	599.65	29.98	569.67
Hotel/Motel Per Room	0.875	192.35	148.40	43.95	2.20	41.75

*Schedule "U" municipality is Lantana.

TABLE 10.2-12
PARKS AND RECREATION FEE SCHEDULE FOR SCHEDULE "W" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. or under	1.646	$ 310.46	$173.63	$ 136.83	$ 6.84	$ 129.99
Dwelling unit, 801 - 1,399 sq. ft.	2.007	378.55	185.45	193.10	9.65	183.45
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	476.44	202.44	274.00	13.70	260.30
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	574.33	219.42	354.91	17.75	337.16
Dwelling unit, 2,600 sq. ft. and over	3.845	725.22	245.61	479.61	23.98	455.63
Hotel/Motel Per Room	0.875	165.04	148.40	16.64	.83	15.81

*Schedule "W" municipalities consist of Jupiter and Riviera Beach.

TABLE 10.2-13
PARKS AND RECREATION FEE SCHEDULE FOR SCHEDULE "X" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.646	$ 284.76	$173.63	$ 111.13	$ 5.56	$ 105.57
Dwelling unit, 801 - 1,399 sq. ft.	2.007	347.21	185.45	161.76	8.09	153.67
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	437.00	202.44	234.56	11.73	222.83
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	526.79	219.42	307.37	15.37	292.00
Dwelling unit, 2,600 sq. ft. and Over	3.845	665.19	245.61	419.58	20.98	398.60
Hotel/Motel Per Room	0.875	151.38	148.40	2.98	.15	2.83

*Schedule "X" municipality is of Palm Beach.

TABLE 10.2-14
PARKS AND RECREATION FEE SCHEDULE FOR SCHEDULE "Y" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	5% Discount	Net Park Impact Fee
Dwelling unit, 800 sq.ft. and under	1.646	$ 259.06	$173.63	$ 85.43	$ 4.27	$ 81.16
Dwelling unit, 801 - 1,399 sq. ft.	2.007	315.88	185.45	130.43	6.52	123.91
Dwelling unit, 1,400 - 1,999 sq. ft.	2.526	397.56	202.44	195.12	9.76	185.36
Dwelling unit, 2,000 - 2,599 sq. ft.	3.045	479.24	219.42	259.82	12.99	246.83
Dwelling unit, 2,600 sq.ft. and over	3.845	605.15	245.61	359.54	17.98	341.56
Hotel/Motel Per Room	0.875	137.71	148.40	0.00	0.00	0.00

*Schedule "Y" municipalities consist of Boca District, Boynton Beach, Delray Beach and Lake Worth.

D. Benefit zones.

1. **Establishment of benefit zones.** Four (4) park impact fee benefit zones are hereby established as follows:

   a. **Benefit zone 1 (North).** Beginning at the water's edge of the Atlantic Ocean and the northern boundary of Palm Beach County as described in Sec. 7.50, Fla. Stat., "County Boundary"; thence

      (1) Westerly along said north boundary to the west line of Range 39 East; thence

      (2) Southerly along said west line to the South Florida Water Management District Levee 8 Canal; thence

      (3) Southeasterly along said Levee 8 Canal to the south line of Township 42 South; thence

      (4) Easterly along said south line to the west line of Range 42 East; thence

      (5) Northerly along said west line to SR-710 (Beeline Highway); thence

      (6) Southeasterly along said SR-710 to Port Road (8th Street); thence

      (7) Easterly along said Port Road and its easterly extension to the Intracoastal Waterway; thence

      (8) Northerly along the Intracoastal Waterway to the Lake Worth inlet and east to the Atlantic Ocean; thence

      (9) Northerly along the water's edge of the Atlantic Ocean to the point of beginning.

   b. **Benefit zone 2 (Central).** Beginning at the water's edge of the Atlantic Ocean and SR-804 (Boynton Beach Blvd.) extended; thence

      (1) Westerly along SR-804 and its extension to the South Florida Water Management Levee 7 Canal; thence

      (2) Northerly along said Levee 7 Canal to the centerline of Old State Road 80; thence

      (3) Westerly along said centerline of State Road 80 to the intersection of the centerline of U.S. Highway 98; thence

      (4) Northwesterly along said centerline of U.S. Highway 98 to the west line of Range 40 East; thence

(5) North along the west line of Range 40 East to the south line of Township 42 South; thence

(6) Easterly along said south line to the west line of Range 42 East; thence

(7) Northerly along said west line to SR-710 (Beeline Highway); thence

(8) Southeasterly along said SR-710 (Beeline Highway) to Port Road (8th Street); thence

(9) Easterly along said Port Road and its easterly extension to the Intracoastal Waterway; thence

(10) Northerly along the Intracoastal Waterway to the Lake Worth Inlet and east to the Atlantic Ocean; thence

(11) Southerly along the water's edge of the Atlantic Ocean to the point of beginning.

c. Benefit zone 3 (South). Beginning at the waters edge of the Atlantic Ocean and SR-804 (Boynton Beach Boulevard) extended; thence

(1) Westerly along SR-804 and its extension to the South Florida Water Management District Levee 7 Canal; thence

(2) Southerly and southeasterly along said Levee 7 Canal, Levee 39 Canal and Levee 36 Canal to the south boundary line of Palm Beach County as described in Florida Statutes section 7.50, "County Boundary"; thence

(3) Easterly along said boundary line to the water's edge of the Atlantic Ocean; thence

(4) Northerly along said water's edge to the point of beginning.

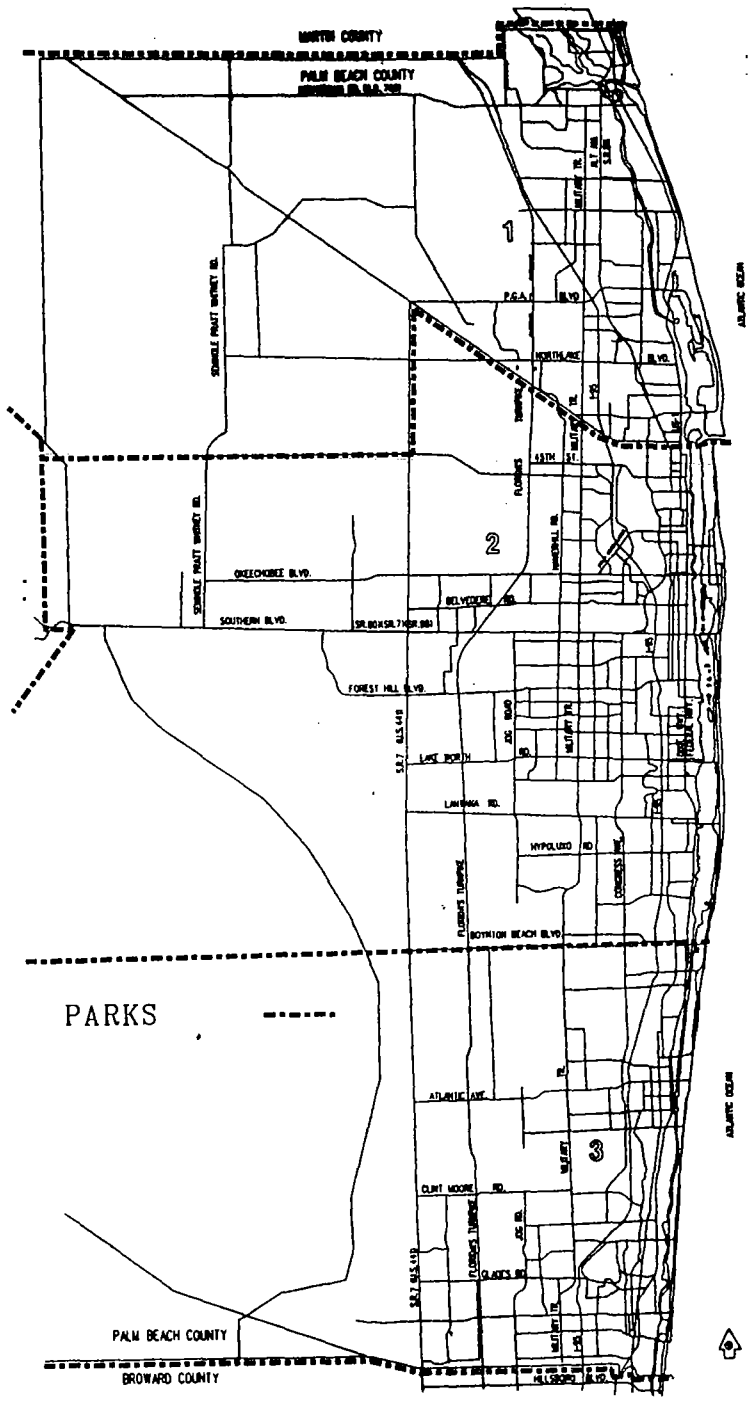
d. Benefit zone 4 (Glades). Zone 4 is bounded on the north by the Martin County line; on the East by the Western boundaries of Zones 1, 2, and 3; on the South by the Broward County line; and on the West by the Hendry County line.

2. Identification of benefit zones. The park benefit zones are shown in Figure 10.2-1. No park impact fee is exacted in benefit zone 4 because (1) development in that benefit zone is overwhelmingly isolated from eastern Palm Beach County; (2) no new capital facilities for parks are required during the planning horizon upon which the park impact fee in Zone 4 is based, except for district park capital facilities; and (3) credits to development in Zone 4 for other assessments funding park capital facilities equal or exceed the impact fee associated with district parks in Zone 4.

E. **Establishment of trust funds.** There are hereby established separate park impact fee trust funds, one for each park impact fee benefit zone.

F. **Use of park impact fees.** Impact fees paid pursuant to this section shall be encumbered and spent only in conformance with Section 10.1.I.

Figure 10.2-1
Park Benefit Zones



SEC. 10.3 FIRE-RESCUE IMPACT FEE.

A. **Imposition of fee.** Impact fees are imposed upon all land uses creating an impact on fire-rescue services in accordance with Sec. 10.1.D and this section.

B. **Fee schedule.** The fee schedule for fire-rescue services is established in Table 10.3-1. Land uses in the fee schedule shall be as defined in Sec. 195.073, Fla. Stat. and Rule 12D-8, F.A.C. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.3-1
FIRE RESCUE IMPACT FEE SCHEDULE

Land Use Type (Unit)	Calls For Service	Cost Per Unit	Credits	Fire-Rescue Impact Fee	5% Discount	Net Fire Rescue Impact Fee
Residential Units, by Type						
Single Family Detached	0.21567	$105.72	$ 18.32	$ 87.40	$ 4.37	$ 83.03
Single Family Attached	0.21567	105.72	10.51	95.21	4.76	90.45
Multi-Family	0.08452	41.43	12.87	28.56	1.43	27.13
Mobile Home	0.08452	41.43	13.95	27.48	1.37	26.11
Hotel/Motel Per Room	0.08452	41.43	11.64	29.79	1.49	28.30
Non-Residential						
Office 100,000 & Under	0.1558	$ 76.39	$ 15.37	$ 61.02	$ 3.05	$ 57.97
100,001 - 125,000	0.1558	76.39	15.03	61.36	3.07	58.29
125,001 - 150,000	0.1558	76.39	14.70	61.69	3.09	58.60
150,001 - 175,000	0.1558	76.39	14.37	62.02	3.10	58.92
175,001 - 199,999	0.1558	76.39	14.04	62.35	3.12	59.23
200,000 & Over	0.1558	76.39	13.70	62.69	3.13	59.56
Medical Office	0.1558	76.39	22.30	54.09	2.70	51.39
Warehouse Per 1,000 Ft.^{2}	0.0645	31.62	2.57	29.05	1.45	27.60
Gen. Industrial Per 1,000 Ft.	0.4360	213.73	3.09	210.64	10.53	200.11
Retail Per 1,000 Ft.^{2}						
80,000 Ft.^{2} & Under	0.2340	$114.71	$ 25.23	$ 89.48	$ 4.47	$ 85.01
80,001 - 99,999	0.2340	114.71	27.73	86.98	4.35	82.63
100,000 - 199,999	0.2340	114.71	27.87	86.84	4.34	82.50
200,000 - 499,999	0.2340	114.71	26.77	87.94	4.40	83.54
500,000 - 999,999	0.2340	114.71	25.56	89.15	4.46	84.69
1,000,000 & Over	0.2340	114.71	25.30	89.41	4.47	84.94

C. **Benefit zones.**

1. **Establishment of benefit zone.** There is hereby established one (1) Fire-Rescue benefit zone, corresponding to the Palm Beach County Fire-Rescue Municipal Service Taxing Unit, and those municipalities contracting with Palm Beach County for the provision of fire-rescue services (municipalities include: Cloud Lake, Glen Ridge, Golfview, Haverhill, Highland Beach, Juno Beach, Jupiter, Jupiter Inlet Colony, Lake Clarke Shores, Palm Beach Gardens, Tequesta, and Village of Golf).

D. **Establishment of trust fund.** There is hereby established a separate impact fee trust fund for the impact fee benefit zone described in Sec. 10.3.C.1.

E. **Use of fire-rescue impact fees.** Impact fees paid pursuant to this section shall be encumbered and spent only in conformance with Section 10.1.I.

SEC. 10.4 LIBRARY IMPACT FEE.

A. **Imposition of fee.** Impact fees are imposed upon all land uses creating an impact on library services in accordance with Sec. 10.1.D and this section.

B. **Fee schedule.** The fee schedule for library services is established in Table 10.4-1. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.4-1
LIBRARY FEE SCHEDULE

Land Use Type (Unit)	Residential Population	Cost Per Unit	Credits	Library Impact Fee	5% Discount	Net Library Impact Fee
Residential Units by Square Footage						
800 Feet and Under	1.646	$ 88.34	$ 63.07	$ 25.27	$ 1.26	$ 24.01
801 - 1,399	2.007	107.71	67.58	40.13	2.01	38.12
1,400 - 1,999	2.526	135.57	74.06	61.51	3.08	58.43
2,000 - 2,599	3.045	163.42	80.54	82.88	4.14	78.74
2,600 and Over	3.845	206.36	90.53	115.83	5.79	110.04

C. **Benefit zone.**

1. **Establishment of benefit zone.** There is hereby established one (1) library benefit zone, consisting of unincorporated Palm Beach County and those municipalities that are part of the Library Taxing District (municipalities include: Atlantis, Belle Glade, Briny Breezes, Cloud Lake, Glen Ridge, Golfview, Greenacres City, Haverhill, Hypoluxo, Juno Beach, Jupiter, Jupiter Inlet Colony, Lake Clarke Shores, Mangonia Park, Ocean Ridge, Pahokee, Palm Beach Gardens, Palm Beach Shores, Royal Palm Beach, South Bay, South Palm Beach, Tequesta, and Village of Golf). The Palm Beach County library system is a interconnected system whereby all materials are available countywide without extra charge through immediate FAX capability and same or next-day courier delivery.

D. **Establishment of trust funds.** There is hereby established a library impact fee trust fund for the benefit zone described in Sec. 10.4.C.1.

E. **Use of library impact fees.** Impact fees paid pursuant to this section shall be encumbered and spent only in conformance with Sec. 10.1.I.

SEC. 10.5 LAW ENFORCEMENT IMPACT FEE.

A. **Imposition of fee.** Impact fees are imposed upon all land uses creating an impact on law enforcement services in accordance with Sec. 10.1.D. and this section.

B. **Fee schedule.** The fee schedules for law enforcement services are established in Tables 10.5-1 and 10.5-2. Land uses in the fee schedule shall be as defined in Sec. 195.073, Fla. Stat. and Rule 12D-8, F.A.C. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.5-1
LAW ENFORCEMENT FEE SCHEDULE FOR COUNTYWIDE SERVICES
ZONE 1

Land Use Type (Unit)	Functional Population	Cost Per Unit	Credits	Law Enforcement Impact Fee	5% Discount	Net Law Enforcement Impact Fee
Residential units by square footage						
Dwelling units, 800 sq. ft. and Under	0.8230	$ 6.92	$ 2.34	$ 4.58	$ .23	$ 4.35
Dwelling unit, 801 - 1,399 sq. ft.	1.0035	8.43	2.85	5.58	.28	5.30
Dwelling unit, 1,400 - 1,999 sq. ft.	1.2630	10.61	3.59	7.02	.35	6.67
Dwelling unit, 2,000 - 2,599 sq. ft.	1.5225	12.79	4.33	8.46	.42	8.04
Dwelling unit, 2,600 sq.ft. and Over	1.9225	16.15	5.46	10.69	.53	10.16
Hotel/Motel Per Room	0.3500	2.94	0.99	1.95	.10	1.85
Non-Residential per 1,000 feet						
Office 100,000 & Under	1.1548	$ 9.70	$ 3.28	$ 6.42	$ .32	$ 6.10
100,001 - 125,000	1.1298	9.49	3.21	6.28	.31	5.97
125,001 - 150,000	1.1048	9.28	3.14	6.14	.31	5.83
150,001 - 175,000	1.0798	9.07	3.07	6.00	.30	5.70
175,001 - 199,999	1.0548	8.86	3.00	5.86	.29	5.57
200,000 & Over	1.0298	8.65	2.93	5.72	.29	5.43
Medical Office	1.6759	14.08	4.76	9.32	.47	8.85
Warehouse Per 1,000 Ft.^{2}	0.1935	1.63	0.55	1.08	.05	1.03
Gen. Industrial Per 1,000 Ft.	0.2321	1.95	0.66	1.29	.06	1.23
Retail Per 1,000 Ft.^{2}						
80,000 Ft.^{2} & Under	1.8958	$ 15.93	$ 5.39	$ 10.54	$ .53	$ 10.01
80,001 - 99,999	2.0838	17.51	5.92	11.59	.58	11.01
100,000 - 199,999	2.0948	17.60	5.95	11.65	.58	11.07
200,000 - 499,999	2.0116	16.90	5.72	11.18	.56	10.62
500,000 - 999,999	1.9212	16.14	5.46	10.68	.53	10.15
1,000,000 & Over	1.9015	15.98	5.41	10.57	.53	10.04

TABLE 10.5-2
LAW ENFORCEMENT FEE SCHEDULE FOR UNINCORPORATED PALM BEACH COUNTY*
ZONE 2

Land Use Type (Unit)	Functional Population	Cost Per Unit	Credits	Law Enforcement Impact Fee	5% Discount	Net Law Enforcement Impact Fee
Residential Units						
Single Family, Detached	0.920	$ 83.31	$ 0.00	$ 83.31	$ 4.17	$ 79.14
Single Family, Attached	0.920	83.31	0.00	83.31	4.17	79.14
Multi-Family	0.120	10.87	0.00	10.87	.54	10.33
Mobile Home	0.120	10.87	0.00	10.87	.54	10.33
Hotel/Motel Per Room	0.920	83.31	0.00	83.31	4.17	79.14
Non-Residential						
Office 100,000 & Under	1.810	$ 163.90	$ 0.00	$ 163.90	$ 8.19	$ 155.71
100,001 - 125,000	1.810	163.90	0.00	163.90	8.19	155.71
125,001 - 150,000	1.810	163.90	0.00	163.90	8.19	155.71
150,001 - 175,000	1.810	163.90	0.00	163.90	8.19	155.71
175,001 - 199,999	1.810	163.90	0.00	163.90	8.19	155.71
200,000 & Over	1.810	163.90	0.00	163.90	8.19	155.71
Medical Office	1.810	163.90	0.00	163.90	8.19	155.71
Warehouse Per 1,000 Ft.²	0.300	27.17	0.00	27.17	1.36	25.81
Gen. Industrial Per 1,000 Ft.	0.300	27.17	0.00	27.17	1.36	25.81
Retail Per 1,000 Ft.²						
80,000 Ft.² & Under	1.810	$ 163.90	$ 0.00	$ 163.90	$ 8.19	$ 155.71
80,001 - 99,999	1.810	163.90	0.00	163.90	8.19	155.71
100,000 - 199,999	1.810	163.90	0.00	163.90	8.19	155.71
200,000 - 499,999	1.810	163.90	0.00	163.90	8.19	155.71
500,000 - 999,999	1.810	163.90	0.00	163.90	8.19	155.71
1,000,000 & Over						

*Includes Cloud Lake, Golfview, Haverhill, Glen Ridge, and Village of Golf.

C. **Benefit zones.**

1. **Establishment of benefit zones.** There are hereby established two (2) law enforcement impact fee benefit zones. They are identified in Figure 10.7-1.

a. **Area and services in benefit zone 1.** Benefit zone one (1) shall include the unincorporated portions of Palm Beach County and those municipalities which do not provide road patrol services, including Cloud Lake, Golfview, Haverhill, Glen Ridge, and Village of Golf. Impact fees paid in these areas support law enforcement functions otherwise met by municipal law enforcement services, though all law enforcement functions of the Sheriff are countywide. The use of this district allows credit for municipal law enforcement services.

b. **Area and services in benefit zone 2.** Benefit zone two (2) shall consist of the entire Palm Beach County, including both the unincorporated area and all municipalities. Countywide functions for which impact fees are charged in this zone include the crime laboratory, warrants divisions, marine enforcement, K-9 unit, and organized crime bureau. No credits for municipal law enforcement activities are applied for these services.

D. **Establishment of trust funds.** There are hereby established separate impact fee trust funds for each impact fee benefit zone described in Sec. 10.5.C.1.

E. **Use of law enforcement impact fees.** The Sheriff shall identify in the Sheriff's budget those new capital facilities for which law enforcement impact fees shall be spent. The funds shall remain restricted to their respective trust funds and the requirements of this article, and the Sheriff shall ensure that the funds are expended and accounted for in accordance with this article. The Sheriff shall maintain such records and documentation necessary to allow the effective audit of the use of the law enforcement impact fees. The County's internal auditor shall have authority to require accounting controls and documentation, and shall have the authority to audit the use of law enforcement impact fees. Palm Beach County may require special impact fee reports by the auditor performing an audit of the Sheriff's accounts. An intergovernmental agreement between Palm Beach County and the Sheriff shall be entered into to ensure compliance with, and to administer, this article.

SEC. 10.6 PUBLIC BUILDINGS IMPACT FEE.

A. **Imposition of fee.** Impact fees are imposed upon all land uses creating an impact on public buildings in accordance with Sec. 10.1.D and this section.

B. **Fee schedule.** The fee schedule for public buildings is established in Table 10.6-1. Land uses in the fee schedule shall be as defined in Sec. 195.073, Fla. Stat. and Rule 12D-8, F.A.C. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.6-1
PUBLIC BUILDINGS FEE SCHEDULE

Land Use Type (Unit)	Functional Population	Cost Per Unit	Credits	Public Buildings Impact Fee	5% Discount	Net Public Buildings Impact Fee
Residential units by square footage						
Dwelling unit, 800 sq. ft. and Under	0.8230	$111.87	$ 71.03	$ 40.84	$ 2.04	$ 38.80
Dwelling unit, 801 - 1,399 sq. ft.	1.0035	136.41	81.93	54.48	2.72	51.76
Dwelling unit, 1,400 - 1,999 sq. ft.	1.2630	171.68	97.59	74.09	3.70	70.39
Dwelling unit, 2,000 - 2,599 sq. ft.	1.5225	206.96	113.25	93.71	4.69	89.02
Dwelling unit, 2,600 sq. ft. and Over	1.9225	261.33	137.38	123.95	6.20	117.75
Hotel/Motel Per Room	0.3500	47.58	42.49	5.09	.25	4.84
Non-Residential per 1,000 Ft.						
Office 100,000 & Under	1.1548	156.98	86.74	$ 70.24	$ 3.51	$ 66.73
100,001 - 125,000	1.1298	153.58	85.23	68.35	3.42	64.93
125,001 - 150,000	1.1048	150.18	83.72	66.46	3.32	63.14
150,001 - 175,000	1.0798	146.78	82.21	64.57	3.23	61.34
175,001 - 199,999	1.0548	143.38	80.71	62.67	3.13	59.54
200,000 & Over	1.0298	139.98	79.20	60.78	3.04	57.74
Medical Office	1.6759	227.81	118.19	109.62	5.48	104.14
Warehouse Per 1,000 Ft.^{2}	0.1935	26.30	21.66	4.64	.23	4.41
Gen. Industrial Per 1,000 Ft.	0.2321	31.55	23.99	7.56	.38	7.18
Retail Per 1,000 Ft.^{2}						
80,000 Ft.^{2} & Under	1.8958	$257.70	$134.37	$ 123.33	$ 6.17	$ 117.16
80,001 - 99,999	2.0838	283.26	145.72	137.54	6.88	130.66
100,000 - 199,999	2.0948	284.75	146.38	138.37	6.92	131.45
200,000 - 499,999	2.0116	273.44	141.36	132.08	6.60	125.48
500,000 - 999,999	1.9212	261.15	135.91	125.24	6.26	118.98
1,000,000 & Over	1.9015	258.48	134.72	123.76	6.19	117.57

C. **Benefit zone.**

1. **Establishment of benefit zone.** There is hereby established one (1) public building impact fee benefit zone, consisting of the entire Palm Beach County, including both the incorporated and unincorporated areas of the County.

D. **Establishment of trust funds.** There is hereby established a separate impact fee trust fund for the impact fee benefit zone described in Sec. 10.6.C.1.

E. **Use of public buildings impact fees.** Fees paid pursuant to this section shall be encumbered and spent only in conformance with Section 10.1.I.

SEC. 10.7 SCHOOL SITE ACQUISITION IMPACT FEE.

A. **Imposition of fee.** Impact fees are imposed upon all development creating an impact on school site requirements in accordance with Sec. 10.1.D and this section.

B. **Fee schedule.** The fee schedules for school site impact fees are established in Table 10.7-1. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.7-1
SCHOOL SITE FEE SCHEDULE

Residential Units by Square Footage	Average Total Occ.	Occupancy Ages 5-17	School Impact	School Impact Fee	5% Discount	Net School Impact Fee
Dwelling unit, 800 sq.ft and under	1.646	0.119	0.098	$ 101.17	$ 5.06	$ 96.11
Dwelling unit, 801 - 1,399 sq.ft.	2.007	0.174	0.143	147.63	7.38	140.25
Dwelling unit, 1,400 - 1,999 sq.ft.	2.526	0.441	0.363	374.75	18.74	356.01
Dwelling unit, 2,000 - 2,599 sq.ft.	3.045	0.708	0.583	601.87	30.09	571.78
Dwelling unit, 2,600 sq.ft. and over	3.845	1.138	0.937	967.32	48.37	918.95

C. **Benefit zones.**

1. **Establishment of benefit zones.** There are hereby established five (5) school impact fee benefit zones set forth as follows.

a. **Benefit zone 1.** The boundaries of benefit zone 1 shall be Palm Beach County's northern boundary on the north, the Beeline Highway/Port Road/8th Street East to Lake Worth, North along the Intracoastal Waterway to the Lake

Worth Inlet and East to Atlantic Ocean on the West and South; and the Atlantic Ocean on the East.

b. Benefit zone 2. The boundaries of benefit zone 2 shall be Beeline Highway/Port Road/8th Street East to Lake Worth, North along the Intracoastal Waterway to the Lake Worth Inlet and East to the Atlantic Ocean on the North; State Road 7 and its extension on the West; SR-804 (Boynton Beach Boulevard) and its extension on the South; and the Atlantic Ocean on the East.

c. Benefit zone 3. The boundaries of benefit zone 3 shall be SR-804 (Boynton Beach Boulevard) and its extension on the North; South Florida Water Management District Levee 40 on the West; Palm Beach County's southern boundary on the South; and the Atlantic Ocean on the East.

d. Benefit zone 4. The boundaries of benefit zone 4 shall be Palm Beach County's northern border and Beeline Highway on the North; the western border of range 40 E on the West; South Florida Water Management District Levee 40 and Northwest 2nd Avenue (Boynton Beach) and its extension on the South; and State Road 7 and its extension on the East.

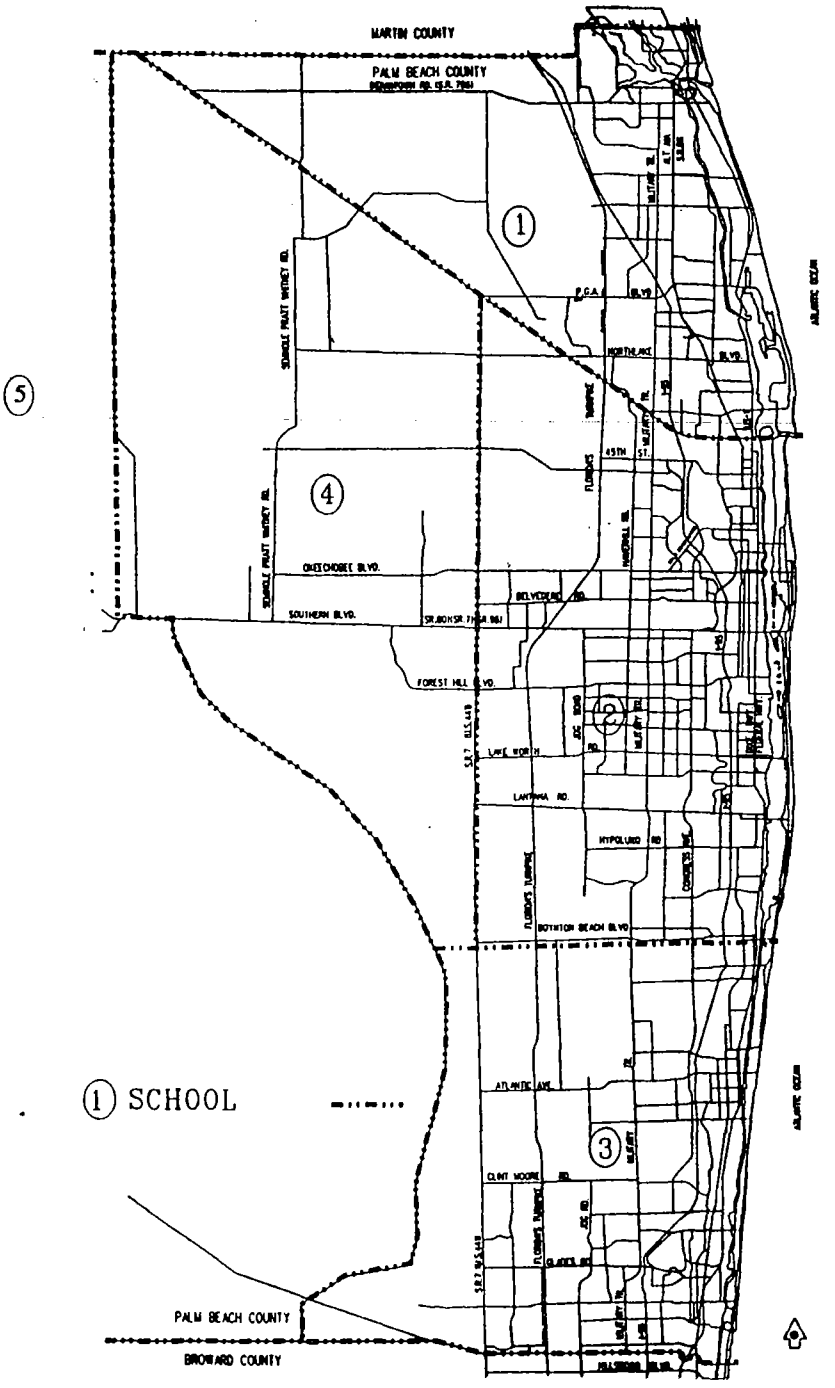
e. Benefit zone 5. The boundaries of benefit zone 5 shall be Palm Beach County's northern, western and southern borders on the North, West, and South, respectively; and the western border of Range 40 E and the South Florida Water Management District Levee 40 on the East.

2. Identification of benefit zones. The school site impact fee benefit zones are identified in Figure 10.7-1. No school site impact fees shall be collected at this time in Benefit zone 5 because there is no identified need for additional school sites due to new development during the planning horizon on which this impact fee is based.

D. Establishment of trust funds. There are hereby established separate impact fee trust funds for each impact fee benefit zone.

E. Use of school site impact fees. School site impact fees shall be appropriated by the Board of County Commissioners and remitted to the School Board following the Clerk's pre-audit of such funds. The funds shall remain restricted to their respective School Board trust funds and the requirements of this article, and the School Board shall ensure that the funds are expended and accounted for in accordance with the provisions of this article. The County's internal auditor shall have the authority to require certain internal accounting controls and documentation, and shall have the authority to audit the expenditure of the funds. An intergovernmental agreement between Palm Beach County and the School Board shall be entered into to ensure compliance with, and to administer the provisions of, this article. The agreement shall provide that the School Board shall participate in defending litigation relating to this section.

Figure 10.7-1
School Site Benefit Zones



SEC. 10.8 FAIR SHARE ROAD IMPACT FEES.

A. **Imposition of fee.** Impact fees are imposed upon all land uses creating an impact on road facilities in accordance with Sec. 10.1.D and this section.

B. **Fee schedule.** At the option of the feepayer, the amount of the impact fee may be determined by the fee schedule, established in Table 10.8-1 or by an independent calculation provided by the feepayer and approved by the Impact Fee Coordinator and the County Engineer. The impact fees in the fee schedule have been calculated using accepted trip generation, trip length, capture/diversion, and capital road facility costs standards, and applying the appropriate credits. Land uses not listed in the fee schedule shall be as defined in the most current edition of the Institute of Transportation Engineers Trip Generation Manual.

C. **Land uses not specified in fee schedule.** If the type of land use for which a building permit is applied is not specified on the impact fee schedule, the Impact Fee Coordinator shall select the most comparable type of land use from the most current edition of *Trip Generation*, a publication of The Institute of Transportation Engineers (ITE). If the Impact Fee Coordinator determines that there is no comparable type of land use in the most current edition of Trip Generation, then the Impact Fee Coordinator shall request a determination of the impact fee from the County Engineer, who shall use the best available traffic generation data, other trip characteristics data, costs per lane mile data, and credit data. The feepayer may challenge the County Engineer's determination through the completion of an independent fee calculation study pursuant to Sec. 10.1.F.

D. **Fee calculation formulae:** The following fee calculation formulae shall be used to determine the road impact fee per unit of development:

1. **Residential.**

New external trips ÷ 2* / **Capacity of 1 lane**	**X**	**Cost to construct 1 lane for 3 miles=**		**Fair Share Road Impact Fee**
One (1) trip ÷ 2* / **Capacity of 1 lane**	**X**	**$2,475,000.00**	**=**	**$165.00 per trip**

2. **Non-residential.**

New external trips ÷ 2* / **Capacity of 1 lane**	**X**	**Cost to construct 1 lane for 1 mile=**		**Fair Share Road Impact Fee**
One (1) trip ÷ 2* / **Capacity of 1 lane**	**X**	**$825,000.00**	**=**	**$55.00 per trip**

3. Non-residential - short trip.

External trips ÷ 2* / **Capacity of 1 lane**	**X**	**Cost to construct 1 lane for ½ mile=**		**Fair Share Impact Fee**
One (1) trip ÷ 2* / **Capacity of 1 lane**	**X**	**$412,400.00**	=	**$27.50 per trip**

*Given 50/50 directional split

E. Independent fee calculation study.

1. General. If a feepayer opts not to have the impact fee determined according to the fee schedule, then the feepayer shall, at the feepayer's expense, prepare and submit simultaneously to the Impact Fee Coordinator and the County Engineer an independent fee calculation study for the land use. The independent fee calculation study shall follow the methodology used for the calculation of road impact fees. The independent fee calculation study shall be conducted by a professional in impact analysis or a registered engineer. The burden shall be on the feepayer to provide the Impact Fee Coordinator and the County Engineer all relevant data, analysis and reports which would assist the Impact Fee Coordinator and the County Engineer in determining whether the impact fee should be adjusted. The Impact Fee Coordinator shall, upon recommendation of the County Engineer, adjust the impact fee if substantial evidence is submitted that clearly demonstrates that an adjustment is necessary under the methodology upon which the impact fee is based.

2. Submission of application. The application for an independent calculation study shall be submitted simultaneously to the Impact Fee Coordinator and the County Engineer.

3. Contents of application. The application shall be in a form established by the Impact Fee Coordinator and made available to the public. A feepayer wishing to perform an independent fee calculation study for road impact fees shall prepare a traffic impact analysis, which shall include, as appropriate, documentation of:

   a. trip generation rates appropriate for the proposed land use;

   b. trip distribution and traffic assignments;

   c. trip length data appropriate for the proposed land use; and

   d. any other trip data employed in the independent fee calculation that is appropriate for the proposed land development.

e. An economic documentation study that includes documentation of:

(1) costs for roadway construction, including the cost of right-of-way, design, and engineering appropriate for the necessary road improvements.

(2) credits attributable to the proposed land use for roadway improvements which can be expected to be available to replace the portion of the service volume used by the traffic generated by the proposed land development.

(3) The shortfall when the credits attributable to the proposed land use are considered.

4. Determination of sufficiency. The Impact Fee Coordinator shall determine if the application is sufficient within five (5) working days of its receipt.

a. If the Impact Fee Coordinator determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No further action shall be taken on the application until the deficiencies are remedied.

b. If the application is determined sufficient, the Impact Fee Coordinator shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

5. Action by Impact Fee Coordinator.

a. Review by County Engineer. Within fifteen (15) working days after the application is determined to be sufficient, the County Engineer shall review the application and, if the application provides substantial evidence that clearly demonstrates using the formulae described in this section that the proposed land use is designed or used such that the development will create fewer trips than projected in the road impact fee component, shall make a written recommendation to the Impact Fee Coordinator on adjusting the road impact fee. If the Impact Fee Coordinator concurs, the Impact Fee Coordinator shall appropriately adjust the fee within five (5) working days of receipt of the County Engineer's recommendation.

b. Responsibility of feepayer. The burden shall be on the feepayer to provide all relevant data, analysis and reports which would assist the Impact Fee Coordinator and, in the case of roads, the County Engineer in making a determination of the appropriate impact fee. The analysis and report must be based on generally accepted methods and the formulas for the specific fee component in the Impact Fee Report, or in the case of roads, the methods and formulas described above in Sec. 10.8.D.

c. **Decision in writing**. The decision of the Impact Fee Coordinator to adjust or to refuse to adjust the impact fee shall be in writing and shall be transmitted to the applicant by certified mail within five (5) days of the decision.

6. **Covenant running with the land**. The Impact Fee Coordinator shall require that a covenant running with the land be executed and recorded on the development's land in cases where:

a. The independent fee calculation is based on a use of land having a lesser impact than that upon which the schedule set forth in the fee component is based; or

b. The development could be put to a use having a greater impact than that proposed in the independent fee calculation study without being required to secure a permit or approval for the use; or

c. For such other reasons that make a covenant necessary to ensure compliance with this article.

7. **Appeal**. The decision of the Impact Fee Coordinator and the County Engineer may be appealed pursuant to Sec 10.1.F.7.

F. **Use of road impact fee funds**. Fees paid pursuant to this section shall be encumbered and spent only in conformance with Sec. 10.1.I. Road impact fees collected in accordance with this article shall be used solely for the purpose of construction or improving roads, streets, highways and bridges on the major road network system, including but not limited to:

(1) Design and construction plan preparation;

(2) Right-of-way acquisition;

(3) Construction of new through lanes;

(4) Construction of new turn lanes;

(5) Construction of new bridges;

(6) Construction of new drainage facilities in conjunction with new roadway construction;

(7) Purchase and installation of traffic signalization;

(8) Construction of new curbs, medians and shoulders;

(9) Relocating utilities to accommodate new roadway construction

G. Special provisions for road credits.

1. **General.** In lieu of paying the road impact fee, the feepayer may elect to propose funding the County's construction of a portion of the major road network system in addition to any required site related improvements. The feepayer shall submit the proposed construction along with a certified engineer's cost estimate to the Impact Fee Coordinator, with a copy to the County Engineer. The County Engineer shall determine if the proposed construction is a desirable and appropriate substitute for the road impact fee, based on the following criteria:

   (1) The proposed road construction must be on the major road network;

   (2) The proposed road construction must not be site-related improvements;

   (3) The proposed road construction must be required to meet the requirements of Traffic Performance Standards for the development as defined in Sec. 7.9.

   Exceptions to criterion #3, above, may only be made upon approval of the board of County Commissioners. No exceptions shall be made to criteria #1 and #2.

   If the proposed road construction meets the criteria for credit, the County Engineer shall determine the amount of credit to be given, and the timetable for completion of the proposed construction, and shall recommend the approval and the amount of credit to the Impact Fee Coordinator. The amount of credit shall be the amount approved by the County Engineer based upon the certified cost estimate for the creditable work. Where the proposed construction is a major project (defined as construction cost in excess of $200,000) these funds shall be provided to Palm Beach County. Using these funds, the project shall be administered as to plans, right-of-way and construction by Palm Beach County. This procedure whereby the construction of major thoroughfare plan projects will be accomplished by Palm Beach County may be waived only by the Board of County Commissioners upon the recommendation of the County Engineer.

2. **Credits for construction within site.** Where a proposed major road network runs through a development and where the feepayer is required to construct two (2) lanes of the road, the feepayer may elect, upon submission of a certified cost estimate to the Impact Fee Coordinator and upon the recommendation of the County Engineer and the approval of the Impact Fee Coordinator, to construct more than two (2) lanes and receive credit for the additional cost of the additional lanes constructed. In addition to all other site-related improvements, the primary two (2) lanes within the site's boundaries shall be considered site-related.

3. **Other costs credited.**

a. **Off-site right-of-way acquisition**. The cost of major road network rights-of-way acquired at the cost of the feepayer shall be credited where the right-of-way is outside of the site and not site related. The costs shall be approved by the County Engineer and the Impact Fee Coordinator based upon the appraised value of the land acquired. The credit shall not exceed the appraiser's approved value, except in the event that a settlement of, or in lieu of, condemnation results in payment in excess of the appraiser's value, in which case credit shall not exceed the amount paid. Cost incurred by Palm Beach County in acquiring such off-site right-of-way which are paid for by the feepayer shall be credited to the feepayer.

b. **Plan preparation**. Costs of plan preparation for major road network construction, excluding site related improvements, shall be credited if approved by the County Engineer and the Impact Fee Coordinator based upon reasonable costs associated with the preparation of such plans.

c. **Costs creditable.** Credit shall be given only for the cost of plans preparation, off-site right-of-way acquisition, or construction/construction funding.

TABLE 10.8-1
FAIR SHARE ROAD
IMPACT FEE SCHEDULE

TYPE OF LAND DEVELOPMENT ACTIVITY	OFFICIAL DAILY TRIP GENERATION RATE PER DWELLING UNIT OR AREA	PASS-BY TRIP RATE (PERCENTAGE*)	FEE PER UNIT
Residential:			
Single family detached	10/du		$ 1,650.00
Attached housing	7/du		1,155.00
Congregate Living Facility	2.145/du		353.93
Mobile Home	5/du		825.00
Nonresidential:			
Drive-in Bank	265.21/1000 sq. ft.	46%	7,876.74
Mini-Warehouse	2.61/1000 sq. ft.	0%	143.55
Hotel	8.7 Trips/Room	0%	478.50
Movie Theater	1.76 Trips/Seat	0%	96.80
Racquet Club	42.9 Trips/Court	0%	2,359.50
Church/Synagogue	9.32 Trips/1000 sq. ft.	0%	512.60
Day Care Center	79.26/1000 sq. ft.	10%	3,923.37
Quality Restaurant	96.51/1000 sq. ft.	15%	4,511.84
High Turnover Sit-Down Restaurant	205.36/1000 sq. ft.	15%	9,600.58
New Car Sales	47.97/1000 sq. ft.	0%	2,638.35
General Office (Examples)**			
10,000 sq. ft.	24.6 Trips/1000 sq. ft.	0%	1,353.00
50,000 sq. ft.	16.58 Trips/1000 sq. ft.	0%	911.90
100,000 sq. ft.	14.03 Trips/1000 sq. ft.	0%	771.65
150,000 sq. ft.	12.71 Trips/1000 sq. ft.	0%	699.05
200,000 sq. ft.	11.85 Trips/1000 sq. ft.	0%	651.75
300,000 sq. ft.	10.77 Trips/1000 sq. ft.	0%	592.35
400,000 sq. ft.	9.96 Trips/1000 sq. ft.	0%	547.80
500,000 sq. ft.	9.45 Trips/1000 sq. ft.	0%	519.75
600,000 sq. ft.	9.05 Trips/1000 sq. ft.	0%	497.75
700,000 sq. ft.	8.75 Trips/1000 sq. ft.	0%	481.25
800,000 sq. ft.	8.46 Trips/1000 sq. ft.	0%	465.30
Office building, medical	34.17/1000 sq. ft.	0%	1,879.35
Hospital, per bed	11.77	0%	647.35
Nursing Home, per bed	2.6	0%	143.00
Warehouse (per 1,000 sq. ft.)	4.88/1000 sq. ft.	0%	268.40
Motel, per room	10.19	0%	560.45
General recreation, per parking space	3	0%	165.00

TABLE 10.8-1
FAIR SHARE ROAD
IMPACT FEE SCHEDULE CONT'D

TYPE OF LAND DEVELOPMENT ACTIVITY	OFFICIAL DAILY TRIP GENERATION RATE PER DWELLING UNIT OR AREA	PASS-BY TRIP RATE (PERCENTAGE*)	FEE PER UNIT
General industrial (light) (per 1,000 sq. ft.)	6.97/1000 sq. ft.	0%	383.35
General Commercial Retail (examples)**			
10,000 sq. ft.	167.59 Trips/1000 sq. ft.	45%	5,069.60
50,000 sq. ft.	91.65 Trips/1000 sq. ft.	44%	2,822.82
100,000 sq. ft.	70.67 Trips/1000 sq. ft.	43%	2,215.50
200,000 sq. ft.	54.50 Trips/1000 sq. ft.	41%	1,768.53
300,000 sq. ft.	48.31 Trips/1000 sq. ft.	38%	1,648.37
400,000 sq. ft.	42.02 Trips/1000 sq. ft.	36%	1,479.10
500,000 sq. ft.	38.65 Trips/1000 sq. ft.	34%	1,403.00
600,000 sq. ft.	36.35 Trips/1000 sq. ft.	32%	1,359.49
800,000 sq. ft.	33.88 Trips/1000 sq. ft.	27%	1,360.28
1,000,000 sq. ft.	32.09 Trips/1000 sq. ft.	23%	1,359.01
1,200,000 sq. ft.	30.69 Trips/1000 sq. ft.	18%	1,384.12
1,400,000 sq. ft.	29.56 Trips/1000 sq. ft.	14%	1,398.19
1,600,000 sq. ft.	28.61 Trips/1000 sq. ft.	9%	1,431.93
Non-Residential (Short Trip Length)			
Fast Food Restaurant	632.12 Trips/1000 sq. ft.	30%	12,168.31
Gas Station	748.00 Trips/Station	58%	8,639.40
Convenience Store	737.99 Trips/1000 sq. ft.	45%	11,162.10

Figures used in the Fee Schedule:

Per trip costs. Based on the formulae presented in Sec. 10.8.D, average capital road facility costs of $412,500.00 to construct one (1) lane of roadway for one half (1/2) mile, $825,000.00 to construct one (1) lane of roadway for one (1) mile, $2,475,000.00 to construct one (1) lane of roadway for three (3) miles, a lane capacity of 7500 trips, the following per trip costs are computed for residential, non-residential, and non-residential/short trip land uses:

Residential:	**$ 165.00 per trip**
Non-residential:	**$ 55.00 per trip**
Non-residential, short trip:	**$ 27.50 per trip.**

*Pass-by-Percentage. The percentage of trips which are passerby trips is set forth as a percentage of total trips and is a reduction to the official daily trip generation rate. If a different capture rate is established through an independent calculation pursuant to Sec. 10.1.F.5.(b), the different capture rate shall be utilized in the determination of the impact fee, if approved by the County Engineer.

**Interpolation between impact fee amounts presented in the examples is acceptable in lieu of calculation for that development whose square footage is in the range between example square footages. The formulae are as follows:

a. Office.
Total Daily Trips = Ln (T) = 0.756 Ln (X) + 3.765
T = Total Daily Trips, X = Area in 1,000 sq. ft., Ln = Natural Logarithm

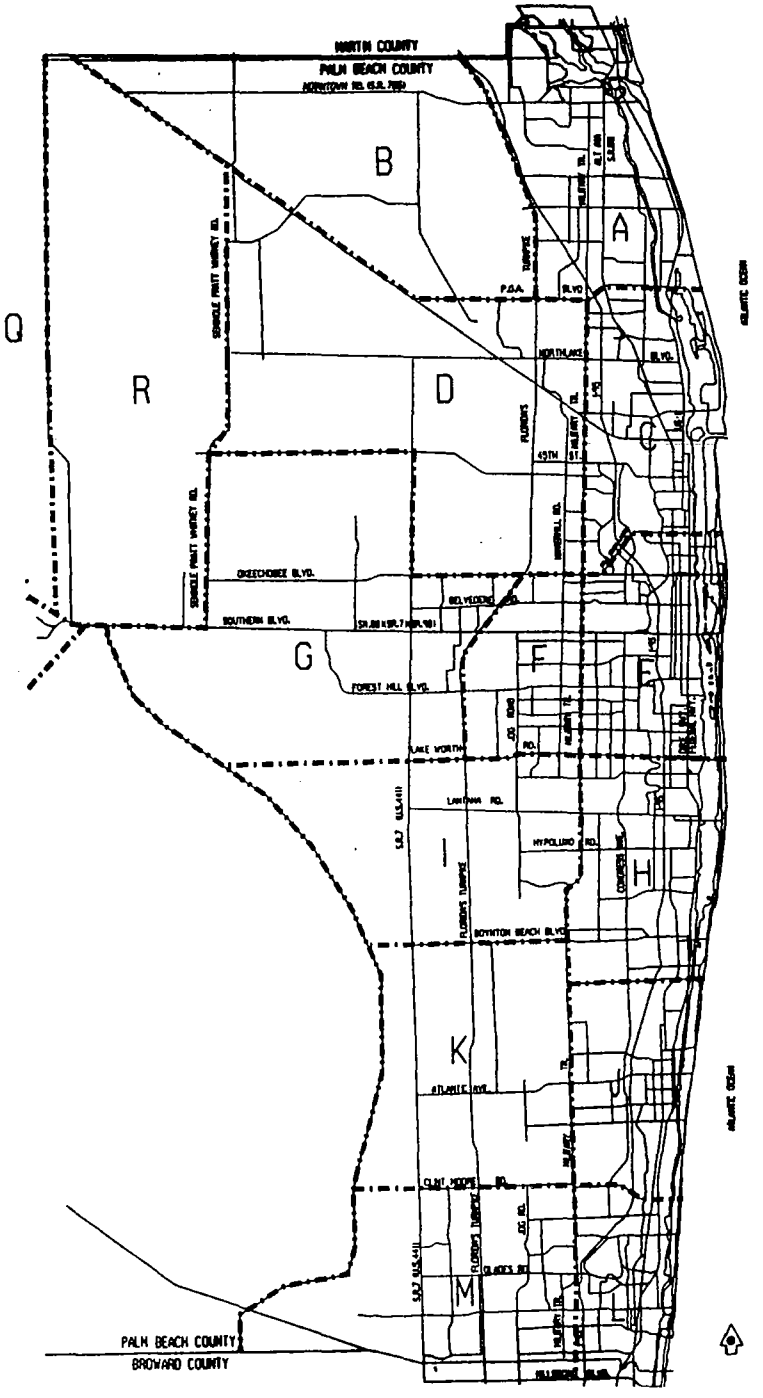
b. General Commercial.
Total Daily Trips (under 570,000 sq. ft.): Ln (T) = 0.625 Ln (X) + 5.985
Total Daily Trips (570,000 sq. ft. and over) Ln (T) = .0756 Ln(X) + 5.154
T = Total Daily Trips, X = Area in 1,000 gross sq. ft. of leasable area, Ln = Natural Logarithm

c. Pass-by Percent Formula (for general commercial).
Pass by % = 45.1 - .0225 (A)
X = Area in 1,000 sq. ft. of leasable area

H. Benefit zones. Road impact fee benefit zones are hereby established as shown in Figure 10.8-1 and incorporated herein by reference. It has been determined that land development in road impact fee benefit zones O, P, and Q are so isolated from the portions of the major road network system that demand additional capital road facilities that no impact fee shall be imposed within those road impact fee benefit zones.

I. Establishment of trust funds. There are hereby established separate road impact fee trust funds, one for each road impact fee benefit zone as shown in Figure 10.8-1.

Figure 10.8-1
Road Impact Fee Benefit Zones



ARTICLE 11.

ADEQUATE PUBLIC FACILITY STANDARDS

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ARTICLE 11.
ADEQUATE PUBLIC FACILITY STANDARDS

Please Note

This document has been prepared to serve as the interim copy of the Unified Land Development Code, adopted on June 16, 1992 and effective on June 22, 1992. It has been prepared for use by staff and those persons who refer to the entire Code on a regular basis.

This document is not codified and may contain certain inconsistencies in construction. It should only be used as a guide until a codified copy of the Code is available.

ARTICLE 11.

ADEQUATE PUBLIC FACILITY STANDARDS

SEC. 11.1 GENERAL.

A. **Purpose and intent**. The purpose and intent of this article is to ensure that adequate potable water, sanitary sewer, solid waste, stormwater management, park, road and mass transit public facilities and fire rescue are available to accommodate development concurrent with the impact of development on such public facilities, consistent with the LOS standards for those public facilities adopted in the Comprehensive Plan. This objective is accomplished by (1) establishing a management and monitoring system to evaluate and coordinate the timing and provision of the necessary public facilities to service development, and (2) by establishing a regulatory program that ensures that each public facility is available to serve development concurrent with the impacts of development on public facilities.

B. **Authority**. The Board of County Commissioners has the authority to adopt this article pursuant to Art. VIII, Sec. 1, Fla. Const., the Palm Beach County Charter, Sec. 125.01, et. seq., Fla. Stat., Sec. 163.3161(8), Fla. Stat., and Secs. 163.3177(10)(h) and 163.3202(2)(g), Fla. Stat..

C. **Exemptions**. The following shall be exempt from the requirements of this article.

1. All development that has received a Concurrency Exemption Certificate or Concurrency Exemption Extension Certificate, pursuant to the "Concurrency Exemption Ordinance of Palm Beach County" and the "Concurrency Exemption Extension Ordinance";

2. Construction of public facilities identified in the CIE of the Comprehensive Plan, or funded in the CIE and identified in other elements of the Plan;

3. An alteration or expansion of a development that does not create additional impact on public facilities;

4. The construction of accessory buildings and structures that does not create additional impact on public facilities;

5. The replacement of an existing dwelling unit within one (1) year of its removal; and

6. The official list of additional specific permit types as established by the Planning Director which are deemed to have no impact on public facilities.

D. Unified Planning Area.

1. If a Unified Planning Area is adopted and implemented by the Board of County Commissioners, through resolution, such Unified Planning Area shall be considered concurrent through the date specified in the resolution, provided:

   a. The terms of the resolution adopting and implementing the Unified Planning Area are being met in good faith; and

   b. The impacts of the Unified Planning Area on the public facilities have been addressed.

2. Adequate public facility standards for the Unified Planning Area shall be maintained providing Secs. 11.1.D.1.a and 11.1.D.1.b have been met, regardless of the impact of subsequently approved or background traffic which may generate traffic in the Unified Planning Area, on affected roadways or other public facilities.

SEC. 11.2 LEVEL OF SERVICE (LOS) STANDARDS. The following LOS standards have been adopted in the Comprehensive Plan and shall apply in the review of development pursuant to the procedures and standards of this article.

A. LOS for Urban Park and Recreation Facilities means the following for park lands and facilities. For park lands: 4.37 acres of acquired park land and 1.37 acres of developed park land for each 1,000 persons for regional park land; 1.25 acres of acquired park land and .67 acres of developed park land for each 1,000 persons for district park land; .37 acres of acquired park land and .23 acres of developed park land for each 1,000 persons for community park land; and .35 acres of acquired park land and .23 acres of developed park land for each 1,000 persons for beach park land.

The boundaries for the Urban Park and Recreation Facilities are the boundaries for the Urban Service Area, as identified in the Future Land Use Atlas of the Comprehensive Plan.

Pursuant to the Comprehensive Plan, these represent interim standards for LOS for Urban Park and Recreation Facilities, which may be modified by the County.

In determining the LOS for Urban Park and Recreation Facilities, park lands and facilities in both the Urban Service Area and Rural Service Area shall be considered.

The following applications for development permits are exempt from the LOS for Urban Park and Recreation Facilities: (1) alterations or expansions of an existing dwelling unit where no additional dwelling units are created; (2) construction of accessory buildings or structures that will not create additional dwelling units; (3) the replacement of an existing dwelling unit, where no additional dwelling units are created; (4) the issuance of a tie-down permit on a mobile home on which applicable park impact assessment fees have previously been paid; and (5) all non-residential development.

B. **LOS for Rural Park and Recreation Facilities** means the following for park lands and facilities. For park lands: 4.37 acres of acquired park land and 1.37 acres of developed park land for each 1,000 persons for regional park land; 1.25 acres of acquired park land and .67 acres of developed park land for each 1,000 persons for district park land; and .35 acres of acquired park land and .23 acres of developed park land for each 1,000 persons for beach park land.

The boundaries for the Rural Park and Recreation Facilities are the boundaries for the Rural Service Area, as identified in the Future Land Use Atlas of the Comprehensive Plan.

Pursuant to the Comprehensive Plan, those represent interim standards for LOS for Rural Park and Recreation Facilities, which may be modified by the County.

In determining the LOS for Rural Park and Recreation Facilities, park lands and facilities in both the Rural Service Area and Urban Service Area shall be considered.

The following applications for development permits are exempt from the LOS for Rural Park and Recreation Facilities: (1) alterations or expansions of an existing dwelling unit where no additional dwelling units are created; (2) construction of accessory buildings or structures that will not create additional dwelling units; (3) replacement of an existing dwelling unit, where no additional dwelling units are created; (4) issuance of a tie-down permit on a mobile home on which applicable park impact assessment fees have previously been paid; and (5) all non-residential development.

C. **LOS for Urban Potable Water Facilities** means the following, based upon the potable water service area where the development is located.

1. Palm Beach County Water Utilities Service Area. The LOS in the Palm Beach County Water Utilities Service Area is 195 gallons per capita per day (g.p.c.d.) for general residential consumption.

2. Seacoast Service Area. The LOS in the Seacoast Service Area is 110 g.p.c.d. for general residential consumption.

3. Acme Service Area. The LOS in the Acme Service Area is 207 g.p.c.d. for general residential consumption.

4. Jupiter Service Area. The LOS in the Jupiter Service Area is 350 gallons per dwelling unit per day for general residential consumption.

5. City of Riviera Beach Service Area. The LOS in the City of Riviera Beach Service Area is 177 g.p.c.d. for general residential consumption.

6. Village of Palm Springs Service Area. The LOS in the Village of Palm Springs Service Area is 194 g.p.c.d. peak and 121 g.p.c.d. average, for general residential consumption.

7. City of Boynton Beach Service Area. The LOS in the City of Boynton Beach Service Area is 200 g.p.c.d. for general residential consumption.

8. City of Delray Beach Service Area. The LOS in the City of Delray Beach Service Area is 263 g.p.c.d. peak and 195 g.p.c.d. average, for general residential consumption.

9. City of Boca Raton Service Area. The LOS in the City of Boca Raton Service Area is 387 g.p.c.d. for general residential consumption.

10. Village of Royal Palm Beach Service Area. The LOS in the Village of Royal Palm Service Area is 135 g.p.c.d. for general residential consumption.

11. City of Belle Glade Service Area. The LOS in the City of Belle Glade Service Area is 91 g.p.c.d. for general residential consumption.

12. City of Pahokee Service Area. The LOS in the City of Pahokee Service Area is 93 g.p.c.d. for general residential consumption.

13. City of South Bay Service Area. The LOS in the City of South Bay Service Area is 174 g.p.c.d. for general residential consumption.

The only exception to the LOS for Urban Potable Water Facilities in the Urban Service Area are those lots which do not have a central water supply available within a distance that a connection is required under Sec. 7.11, (Environmental Control Rule II) Water Supply Systems. The exception is valid only if an on site water supply system can be installed in accordance with all the technical and setback requirements of Sec. 7.11, Water Supply Systems (Environmental Control Rule II).

D. LOS for Rural Potable Water Facilities means an on site potable water well permitted and operated in conformance with State and Palm Beach County regulations. There shall be no minimum LOS for fire flow for Rural Potable Water Facilities. The Rural Service Area for Rural Potable Water Facilities is identified in the Future Land Use Atlas of the Comprehensive Plan.

E. LOS for Road Facilities means the LOS for Road Facilities as set forth in Sec. 7.9, Traffic performance standards.

F. LOS for Mass Transit Facilities means that development orders shall not cause Palm Beach County's total mass transit capacity to fall below that which can accommodate three quarters of one percent (75%) of the total County transportation trips.

G. LOS for Urban Sanitary Sewer Facilities means the following, based upon the Sanitary Sewer Service Area where the development is located.

LOS for Urban Sanitary Sewer Areas

	Minimum Wastewater Capacity (per capita, per day)	Disposal of Effluent	Disposal of Sludge
1. Palm Beach County Water Utilities Service Area	central region 92 gallons southern region 120 gallons	*1	*2
2. City of Boca Raton Service Area	147 gallons	*1	*2
3. City of Delray Beach Service Area	117 gallons	*1	*2
4. City of Boynton Beach Service Area	90 gallons	*1	*2
5. City of Riviera Beach Service Area	135 gallons	*1	*2
6. Village of Royal Palm Beach Service Area	85 gallons	*1	*2
7. Village of Palm Springs/ Lake Worth Service Area	75 gallons	*1	*2
8. City of Belle Glade Service Area	101 gallons	*1	*2
9. City of Pahokee Service Area	100 gallons	*1	*2
10. City of South Bay Service Area	163 gallons	*1	*2
11. Encon Service Area	85 gallons	*1	*3
12. Seacoast Service Area	91 gallons	*1	*3
13. Acme Service Area	70 gallons	*1	*3

*1) As required by EPA and DER regulations
*2) As required by DER and Solid Waste Authority
*3) As required by DER regulations

The minimum LOS for Urban Sanitary Sewer Facilities for single lots of record in the Urban Service Area which represent infill development and are grandfathered pursuant to On-Site Sewage Disposal Systems (ECR I), Sec. 7.10, is a septic tank permitted in accordance with State and local regulations as administered by the PBCPHU.

H. LOS for Rural Sanitary Sewer Facilities means a septic tank permitted and operated in conformance with State and County regulations as administered by the PBCPHU. The Rural Service Area is identified in the Future Land Use Atlas of the Comprehensive Plan.

I. **LOS for Solid Waste Facilities** means sufficient capital solid waste disposal facilities to dispose of 7.1 pounds of solid waste per capita per day.

J. **LOS for Fire-Rescue Facilities** means that all properties in the Coastal Municipal Services Taxing Unit(s) shall be provided fire services that have an aggregate response time of five (5) minutes.

K. **LOS for Drainage Facilities** means facilities adequate to handle the following storm flows.

DEVELOPMENT FEATURE	LEVEL OF SERVICE
o Lowest habitable space of residential and commercial buildings.	Inundation elevation resulting from 100-year, 3-day rainfall, assuming zero discharge; or 100-year flood elevation per F.E.M.A. Flood Insurance Rate Maps; or 100-year flood elevation as established by SFWMD rule, whichever is more restrictive.
o Residential Subdivision Lots with gross area one-quarter acre or less. (1)(2)	3-year, 24-hour rainfall.
o Residential Subdivision lots with gross area greater than one-quarter acre.	
(a) within 20 feet of habitable building.	(a) 3-year, 24-hour rainfall.
(b) remainder of lot except areas designated for stormwater management purposes.	(b) duration of inundation not to exceed 8 hours subsequent to 3-year, 24-hour rainfall.
o Local Streets. (1)(2)	3-year, 24-hour rainfall.
o Collector Streets not included in Thoroughfare Plan. (1)(2)	5-year, 24-hour rainfall.
o Thoroughfare Plan Streets.	In accordance with applicable requirements, pursuant to FDOT Drainage Manual.
o Residential Parking Lots. (1)(2)	3-year,24-hour rainfall (5-year, 24-hour rainfall when exfiltration trench system used.)
o Commercial Parking Lots. (1)(2)	3-year, 24-hour rainfall (5-year, 24-hour rainfall when exfiltration trench system used.)
o Recreation and Open Space Areas not specifically designated for stormwater management purposes.	Duration of inundation not to exceed 8 hours following 3-year, 24-hour rainfall.

(1) Hydraulic capacity design of related storm water discharge facilities is to be based on peak runoff rates produced by rainfall intensities for applicable return periods in accordance with intensity versus duration curves for FDOT-Zone 10.
(2) Tailwater elevations for design of related storm sewerage shall be based on peak receiving water elevations determined for the noted return period and duration.

SEC. 11.3 MONITORING PROGRAM.

A. General. In order to ensure that adequate potable water, sanitary sewer, solid waste, drainage, park and recreation, road, mass transit, and fire-rescue public facilities are available concurrent with the impacts of development on public facilities, the County shall establish the following management and monitoring practices. Their purpose is to evaluate and coordinate the timing, provision, and funding of potable water, sanitary sewer, solid waste, drainage, park and recreation, road, mass transit, and fire- rescue public facilities so that (1) they are being adequately planned for and funded to maintain the LOS for public facilities and (2) to evaluate the capacity of the public facilities for use in the regulatory program to ensure (a) there are no development orders issued unless there are adequate public facilities available to serve the development concurrent with the impacts of development on the public facilities, or (b) no development orders are issued unless they are conditioned on the availability of public facilities to serve the development concurrent with the impacts of development on public facilities.

B. Annual Public Facilities Update Report (AUR). By March 1 of each year, the Executive Director of PZB shall complete and submit to the Office of Management and Budget (OFMB) an Annual Public Facilities Update Report (hereinafter "AUR"). The AUR shall (a) determine the existing conditions of all potable water, sanitary sewer, solid waste, drainage, park, road, mass transit, and fire-rescue public facilities, (b) determine and summarize the available capacity of these public facilities based on their LOS, and (c) forecast the capacity of existing and planned capital improvements identified in the five (5) year capital improvement schedule for each of the five (5) succeeding years. The forecasts shall be based on the most recently updated schedule of capital improvements for each public facility. The AUR shall also revise relevant population projections. Specifically, the AUR shall include:

1. A summary of development exempted pursuant to Sec. 11.1.C.

2. A summary of development activity.

3. An evaluation of public facilities (potable water, sanitary sewer, solid waste, drainage, park and recreation, road, mass transit, and fire-rescue facilities) indicating:

   a. the capacity available for each at the beginning of the reporting period and the end of the reporting period;

   b. an evaluation of the LOS for each public facility; and

   c. a forecast of the capacity for each public facility based upon the most recent updated schedule of capital improvements in the CIE.

C. Recommendations on amendments to CIE and annual budget. Based upon analysis of the AUR, OFMB shall propose to the Board of County Commissioners each year, any necessary amendments to the CIE, and any proposed amendments to the County's annual budget for public facilities.

SEC. 11.4 REVIEW FOR ADEQUATE PUBLIC FACILITIES.

A. **General**. In order to ensure that adequate potable water, sanitary sewer, solid waste, drainage, park and recreation, road, mass transit, and fire-rescue public facilities are available concurrent with the impacts of development on each public facility, Palm Beach County shall establish the following development review procedures to ensure there is no development order issued unless there are adequate public facilities available to serve the proposed development, or that the development order is conditioned on the availability of public facilities to serve the development concurrent with the impacts of development on the public facilities.

1. **Preliminary development order**. No application for a development permit, except one for a variance or a special permit, for a preliminary development order shall be approved without receipt of either a Concurrency Exemption Determination, a Certificate of Concurrency Reservation, a Certificate of Concurrency Reservation with conditions, or a Conditional Certificate of Concurrency Reservation.

2. **Final development order**. No application for a development permit, except one for a variance or a special permit, for a final development order shall be approved without receipt of either a Concurrency Exemption Determination, a Certificate of Concurrency Reservation, or a Certificate of Concurrency Reservation with conditions.

B. **Procedure for review of Adequate Public Facilities Determination.**

1. **Submission of application**. An application for an Adequate Public Facilities Determination shall be submitted at any time during the year, to the Planning Director in a form established by the Planning Director and made available to the public. The application shall be accompanied by a fee established by the Board of County Commissioners from time to time for the filing and processing of each application. The fee shall be non-refundable.

2. **Determination of sufficiency**. The Planning Director shall initiate review of an application for an Adequate Public Facilities Determination upon receipt of the application, and within fifteen (15) working days determine whether the application is sufficient and includes data necessary to evaluate the application.

   a. If it is determined that the application is not sufficient, written notice shall be sent to the applicant specifying the deficiencies. The Planning Director shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within twenty (20) working days of written notification, the application shall be considered withdrawn.

   b. If the application is determined sufficient, the Planning Director shall notify the applicant in writing of the application's sufficiency, and that the application is ready for review pursuant to the procedures and standards of this section.

3. **Determination of review.** The Planning Director shall also determine whether all Service Providers are required to review the application. If the Planning Director determines that two (2) or less public facilities are impacted by the proposed development, the application may be eligible for a small project concurrency review fee. The Planning Director, where appropriate, shall consult with the Service Providers in making such determination.

4. **Review and recommendation of County Departments and Service Providers.** Within three (3) working days after the Planning Director determines the application is sufficient, the application shall be forwarded to the County Departments and Service Providers for review. Within fifteen (15) working days of its receipt, the County Departments and Service Providers shall file a statement with the Planning Director as to whether or not adequate public facilities are available, pursuant to the standards of Sec. 11.4.B.6.

5. **Decision of Planning Director.** Within ten (10) working days of receipt of a statement from all of the County Departments and Service Providers regarding an application for an Adequate Public Facilities Determination, the Planning Director shall review the statements and the application, and determine if it complies with all the public facility component standards of Sec. 11.4.B.6. If the application complies with all of the public facility component standards in Sec. 11.4.B.6, the Planning Director shall issue an Adequate Public Facilities Determination.

6. **Standards for review of application for Adequate Public Facilities Determination.** The following standards shall be used in deciding whether to issue or deny an Adequate Public Facilities Determination. Before issuance of an Adequate Public Facilities Determination, the application shall fulfill the standards for each public facility component (potable water, sanitary sewer, solid waste, drainage, parks and recreation, roads, mass transit, and fire-rescue facilities).

   a. **Potable water facilities.** The potable water component shall be approved if any of the following conditions are met:

      (1) Potable water facilities are in place to provide the proposed development sufficient services based on the LOS for potable water facilities;

      (2) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are under construction and bonded;

      (3) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are the subject of a binding and executed contract; or

(4) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

b. Sanitary sewer facilities. The sanitary sewer component shall be approved if any of the following conditions are met:

(1) Sanitary sewer facilities are in place to provide the proposed development sufficient services based on the LOS for sanitary sewer facilities;

(2) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are under construction and bonded;

(3) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are the subject of a binding and executed contract; or

(4) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

c. Solid waste facilities. The solid waste component shall be approved if any of the following conditions are met:

(1) Solid waste facilities are in place to provide the proposed development sufficient services based on the LOS for solid waste facilities;

(2) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are under construction and bonded;

(3) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are the subject of a binding and executed contract; or

(4) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

d. Drainage facilities. The drainage component shall be approved if the proposed development has access to a point of legal positive outfall.

e. **Park and recreation facilities.** The park and recreation component shall be approved if any of the following conditions are met:

(1) Park and recreation facilities are in place to provide the proposed development sufficient services based on the LOS for park and recreation facilities;

(2) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are under construction and bonded;

(3) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are the subject of a binding and executed contract; or

(4) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

f. **Road facilities.** The road component shall be approved if the proposed development complies with Sec. 7.9, Traffic Performance Standards.

g. **Mass transit facilities.** The mass transit component shall be approved if the travel demand of the proposed development does not deteriorate the LOS for mass transit facilities below the adopted LOS for mass transit facilities.

h. **Fire-rescue facilities.** The fire-rescue component shall be approved if any of the following conditions are met:

(1) Fire-rescue facilities are in place to provide the proposed development sufficient services based on the LOS for fire-rescue facilities;

(2) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are under construction;

(3) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are the subject of a binding and executed contract; or

(4) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

7. **Rules of General Applicability.**

a. **Expiration.** An Adequate Public Facilities Determination shall expire after three (3) months from date of issuance.

b. **Effect.** An Adequate Public Facilities Determination shall serve as a statement that based upon the present public facility capacity, adequate public facilities are available to serve the development at the time of the approval of the Adequate Public Facilities Determination. A subsequent application for a development permit for development that has been approved based upon an Adequate Public Facilities Determination shall be required to receive a new Adequate Public Facilities Determination, a Conditional Certificate of Concurrency Reservation, or Certificate of Concurrency Reservation, whichever is appropriate. It shall not be considered a Certificate of Concurrency Reservation.

c. **Assignability and transferability.** An Adequate Public Facilities Determination is not assignable or transferable.

C. **Procedure for review of Certificate of Concurrency Reservation.**

1. **Submission of application.** An application for a Certificate of Concurrency Reservation shall be submitted at any time during the year to the Planning Director, in a form established by the Planning Director and made available to the public. The application shall be accompanied by a fee established by the Board of County Commissioners from time to time for the filing and processing of each application. The fee shall be non-refundable.

2. **Determination of sufficiency.** The Planning Director shall initiate review of an application for a Certificate of Concurrency Reservation upon receipt of the application, and within fifteen (15) working days determine whether the application is sufficient and includes data necessary to evaluate the application.

a. If it is determined that the application is not sufficient, written notice shall be sent to the applicant specifying the deficiencies. The Planning Director shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within twenty (20) working days of written notification, the application shall be considered withdrawn.

b. If the application is determined sufficient, the Planning Director shall notify the applicant in writing of the application's sufficiency, and that the application is ready for review pursuant to the procedures and standards of this section.

3. **Determination of review**. The Planning Director shall also determine whether all Service Providers are required to review the application. If the Planning Director determines that two (2) or less public facilities are impacted by the proposed development, the application may be eligible for a small project concurrency review fee. The Planning Director, where appropriate, shall consult with the Service Providers in making such determination.

4. **Review and recommendation of County Departments and Service Providers**. Within three (3) working days after the Planning Director determines the application is sufficient, the application shall be forwarded to the County Departments and Service Providers for review. Within fifteen (15) working days of its receipt, the County Departments and Service Providers shall file a statement with the Planning Director as to whether or not adequate public facilities are reserved, pursuant to the standards of Sec. 11.4.B.6.

5. **Decision of Planning Director**. Within ten (10) working days after receipt of a statement from the County Departments and Service Providers regarding an application for a Certificate of Concurrency Reservation, the Planning Director shall review the statements and the application, and determine if it complies with all the public facility component standards of Sec. 11.4.B.6. and the density requirements of the Comprehensive Plan. If the application complies with all of the public facility component standards in Sec. 11.4.B.6 and meets the density requirements of the Comprehensive Plan, the Planning Director shall issue a Certificate of Concurrency Reservation. If the Planning Director determines that an application fails to meet any one (1) of the public facility component standards of Sec. 11.4.B.6, the applicant shall be notified of such deficiency, and may either:

   a. **Ninety (90) Day Negotiation Period**. If during the ninety (90) day period, the applicant resolves the deficiencies, the application shall be reconsidered by the Planning Director and approved or denied consistent with the standards of this Article.

   b. **Certificate of Concurrency Reservation with conditions**. If the appropriate Service Provider can ensure there will be adequate public facilities with condition(s) on the Certificate of Concurrency Reservation, the Certificate of Concurrency Reservation shall be approved subject to compliance with that condition. No building permit shall be issued for development subject to a Certificate of Concurrency Reservation with conditions until all conditions have been met.

c. **Conditional Certificate of Concurrency Reservation.**

(1) **General.** Request approval of a Conditional Certificate of Concurrency Reservation. A Conditional Certificate of Concurrency Reservation shall be approved by the Planning Director if it is demonstrated that:

(a) All existing available public facility capacity up to but not greater than an amount sufficient to serve the proposed development has been reserved;

(b) There is reasonable likelihood that the balance of the public facility capital improvements identified to provide the remaining capacity necessary to accommodate the proposed development can be provided pursuant to an Agreement;

(c) The applicant requests consideration and approval of an Agreement concurrent with the application for a development permit for which the Conditional Certificate of Concurrency Reservation is requested for the purpose of ensuring the Certificate complies with the adequate public facility standards for a Certificate of Concurrency Reservation in Sec. 11.4.B.6.

(d) The Conditional Certificate of Concurrency Reservation is conditioned on the concurrent approval of an Agreement and a development order for the application for development permit that complies with the adequate public facility standards for a Certificate of Concurrency Reservation in Sec. 11.4.B.6.

(2) **Consideration in conjunction with an Agreement.**

(a) If an Agreement, the form to be determined by the Planning Director, is to be part of an application for a development order, then prior to the proposed development order application being considered for consistency the agreement shall be: 1) found to be in sufficient form and contain sufficient information by the County Attorney and the Planning Director; and, 2) accompanied by applicable fee, as set in the adopted fee schedule.

(b) Prior to the Board of County Commissioners' consideration of the Agreement in conjunction with the application for development permit for which a Conditional Certificate of Concurrency Reservation has been approved, the Planning Director shall review that component of the Agreement related to the provision of adequate public facilities for the proposed development and determine if through prior reservation of public facility capacity and the terms of the proposed

Agreement, the adequate public facility standards for a Certificate of Concurrency Reservation in Sec. 11.4.B.6. are met if the terms of the Agreement is approved by the Board of County Commissioners.

(c) If the Planning Director determines that the standards of Sec. 11.4.B.6 are met if the Agreement is approved, a conditional Certificate of Concurrency Reservation shall be issued, conditioned on the approval of the Agreement with the express terms related to the provision of the public facilities for the proposed development.

(d) Upon approval of the Agreement consistent with the terms and conditions which the Planning Director determined would ensure compliance with the requirements of Sec. 11.4.B.6 and the development order, the Certificate of Concurrency Reservation shall become final. If the Agreement upon which the Certificate of Concurrency Reservation is conditionally issued is denied, then the Conditional Certificate of Concurrency Reservation shall expire.

6. **Standards for review of application for Certificate of Concurrency Reservation.** The following standards shall be used in the determination of whether to issue, issue with conditions, or deny a Certificate of Concurrency Reservation. Before issuance of a Certificate of Concurrency Reservation, the application shall fulfill the standards for each public facility component (potable water, sanitary sewer, solid waste, drainage, parks and recreation, roads, mass transit, and fire-rescue facilities).

a. **Potable water facilities.** The potable water component shall be approved if any of the following conditions are met:

(1) Potable water facilities are in place to provide the proposed development sufficient services based on the LOS for potable water facilities, and a reservation of capacity has been received from the appropriate service provider;

(2) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are under construction and bonded, and a reservation of capacity has been received from the appropriate service provider;

(3) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are the subject of a binding executed contract, and a reservation of capacity has been received from the appropriate service provider;

(4) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget, and a reservation of capacity has been received from the appropriate service provider; or

(5) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities, are committed to be provided by the applicant pursuant to a Development Agreement.

b. Sanitary sewer facilities. The sanitary sewer component shall be approved if any of the following conditions are met:

(1) Sanitary sewer facilities are in place to provide the proposed development sufficient services based on the LOS for sanitary sewer facilities, and a reservation of capacity has been received from the appropriate service provider;

(2) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities is under construction and bonded, and a reservation of capacity has been received from the appropriate service provider;

(3) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are the subject of a binding and executed contract, and a reservation of capacity has been received from the appropriate service provider;

(4) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget, and a reservation of capacity has been received from the appropriate service provider; or

(5) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are committed to be provided by the applicant pursuant to a Development Agreement.

c. Solid waste facilities. The solid waste component shall be approved if any of the following conditions are met:

(1) Solid waste facilities are in place to provide the proposed development sufficient services based on the LOS for solid waste facilities;

(2) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are under construction and bonded and a reservation of capacity has been provided for the facilities;

(3) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are the subject of a binding and executed contract and a reservation of capacity has been provided for the facilities; or

(4) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are included in the Solid Waste Authority's Annual Budget.

d. **Drainage facilities.** The drainage component shall be approved if the proposed development has access to a point of legal positive outfall and provides means for connection of stormwater flow from the proposed development to a legal positive outfall.

e. **Park and recreation facilities.** The park and recreation component shall be approved if any of the following conditions are met.

(1) Park and recreation facilities are in place to provide the proposed development sufficient services based on the LOS for park and recreation facilities, and a reservation of capacity has been provided for the facilities;

(2) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are under construction and bonded, and a reservation of capacity has been provided for the facilities;

(3) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are the subject of a binding and executed contract, and a reservation of capacity has been received from the appropriate service provider;

(4) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget and a reservation of capacity has been received from the appropriate service provider; or

(5) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities shall be provided pursuant to the terms of a Development Agreement.

f. **Road facilities**. The road component shall be approved if the proposed development complies with Sec. 7.9, Traffic performance standards, and the LOS for road facilities. In determining whether the road component meets the requirements of this subsection, the Five (5) Year Schedule of Improvements in the CIE may be considered only if the development proposed in the application is phased so that the impacts of the proposed development and the capacity provided by the road projects in the Five (5) Year Schedule of Improvements will occur concurrently. The phasing of development and transportation improvements to ensure the LOS for road facilities is met may be addressed through a Development or Road Agreement.

g. **Mass transit facilities**. The mass transit component shall be approved if the travel demand of the proposed development does not deteriorate the LOS for mass transit facilities below the adopted LOS for mass transit facilities, and a reservation of capacity has been provided from the County.

h. **Fire-rescue facilities**. The fire-rescue component shall be approved if any of the following conditions are met:

(1) Fire-rescue facilities are in place to provide the proposed development sufficient services based on the LOS for fire-rescue facilities, and a reservation of capacity is received from the service provider;

(2) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are under construction and bonded, and a reservation of capacity is received from the appropriate service provider;

(3) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire rescue facilities are the subject of a binding and executed contract, and a reservation of capacity has been received from the appropriate service provider;

(4) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire rescue facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget, and a reservation of capacity has been received from the service provider; or

(5) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are provided pursuant to a Development Agreement.

7. **Rules of General Applicability.**

a. **Expiration.** A Certificate of Concurrency Reservation with conditions shall expire one (1) year from the date of issuance if a development order is not issued for the development for which the Certificate was approved. If a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions either expires or becomes invalid, the public facility capacity reserved by the Certificate expires, and becomes additional available public facility capacity. An applicant cannot apply for a new Certificate of Concurrency Reservation until the previous Certificate of Concurrency Reservation has expired.

b. **Extension.** Prior to the expiration of a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions, one extension of the reservation of up to two (2) months may be provided by the Planning Director if it is determined that a government delay caused the failure of the development order to be issued. In no other case may an extension of time be provided.

c. **Effect.** Receipt of a Certificate of Concurrency Reservation shall constitute proof of adequate public facilities to serve the proposed development. A Certificate of Concurrency Reservation with conditions shall constitute proof of adequate public facilities to serve the proposed development only when all conditions have been met. A subsequent application for a development permit for development for which a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions has been approved, shall be determined to have adequate public facilities as long as: 1) the development order for which the Certificate was approved has not expired; 2) all annual fees necessary to maintain the reservation are paid each year; and, 3) the development is not altered to increase the impact of the development on public facilities. The expiration of a development order shall result in the expiration of the Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions.

d. **Assignability and transferability.** A Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions shall not be assignable or transferable to other property, except within the same approved development. It shall be assignable or transferable to successors in interest for the same property.

e. **Phasing.** In determining whether an application for a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions complies with the requirements of Sec. 11.4.B.6, the Planning Director may consider the phasing of development and its coordination with public facility capital improvements for a period of up to five (5) years, or some other period consistent with the terms of an Agreement.

8. Appeal.

a. General. An applicant may appeal a decision of the Planning Director denying an application for a Certificate of Concurrency Reservation to the Development Review Appeals Board by filing a petition with the Planning Director appealing the decision of the Planning Director within ten (10) days of the decision of the Planning Director.

b. Procedure. The Development Review Appeals Board shall consider the appeal petition within sixty (60) days of its filing. The Development Review Appeals Board shall notify the applicant ten (10) working days before the hearing and invite the petitioner or the petitioner's representative to attend the hearing. At the hearing, the Development Review Appeals Board shall provide the petitioner and County staff an opportunity to present arguments and testimony. In making its decision, the Development Review Appeals Board shall consider only the record before the Planning Director at the time of the decision, testimony of the petitioner and the petitioner's agent, and testimony of County Department members and Service Providers.

c. Standard. The Development Review Appeals Board shall reverse the decision of the Planning Director only if there is substantial competent evidence in the record that the application complies with the standards of Sec. 11.4.B.6 or another adequate method of meeting the concurrency requirement is provided and approved. In considering all technical issues related to Road Facilities, the decision of the Traffic Performance Standards Review Board shall be binding.

9. Amendment of Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions. An amendment to a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions shall be required prior to the approval of any amendment to a development order for which a Certificate has been approved if the amendment increases or decreases the need for capacity for any public facility (potable water, sanitary sewer, solid waste, drainage, parks and recreation, roads, mass transit, and fire-rescue). The amendment of a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions shall only require reservation of the additional public facility capacity demanded by the proposed development and modification of the reservation of the public facility capacity if the demand is decreased. An amendment shall be required if there is a decrease in the density or intensity of development approved in a development order. Any amendment to a development order for which an Adequate Public Facilities Determination has been approved shall require a new Adequate Public Facilities Determination or a revised Certificate of Concurrency Reservation or a revised Certificate of Concurrency Reservation with conditions, whichever is appropriate.

10. **Effect of Agreement in Conjunction with a Conditional Certificate of Concurrency Reservation.** A developer may enter into an Agreement with Palm Beach County and relevant service providers, for those public facilities specifying that an Agreement is acceptable, in conjunction with the approval of a development order and a Conditional Certificate of Concurrency Reservation, to ensure adequate public facilities are available concurrent with the impacts of development on the public facility. The effect of the Agreement shall be to bind Palm Beach County and the developer pursuant to the terms and duration of the Agreement to its determination pursuant to Sec. 11.4.C.4 that adequate public facilities are available to serve the proposed development concurrent with the impacts of the development on the public facilities. Any public facility Capital Improvement in the Five (5) Year Schedule of Capital Improvements in the CIE on which such a Conditional Certificate of Concurrency Reservation is made in conjunction with the approval of a development order and an Agreement, shall not be delayed, deferred, or removed from the Five (5) Year Schedule of Improvements in the CIE, except that any Capital Improvement may be deferred by one (1) year if the deferral is identified pursuant to the terms of an Agreement.

SEC. 11.5 ENTITLEMENT DENSITY.

A. **General.** If after an appeal pursuant to Sec. 11.4.C.8, on an application for a Certificate of Concurrency Reservation is denied by the Planning Director and that decision is affirmed by the Development Review Appeals Board, the applicant may submit an application for Entitlement Density pursuant to the procedural and substantive requirements of this section.

B. **Submission of application.** An application for Entitlement Density shall be submitted to the Planning Director on a form established by the Planning Director and made available to the public. The application shall be accompanied by a fee established by the Board of County Commissioners from time to time for the filing and processing of each application. The fee shall be non-refundable.

C. **Determination of sufficiency.** The Planning Director shall initiate review of an application for Entitlement Density upon receipt of the application, and within fifteen (15) working days, determine whether the application is sufficient and includes data necessary to evaluate the application.

1. If it is determined that the application is not sufficient, written notice shall be sent to the applicant specifying the deficiencies. The Planning Director shall take no further action on the application unless the deficiencies are remedied.

2. If the application is determined sufficient, the Planning Director shall notify the applicant in writing of the application's sufficiency, and that the application is ready for review pursuant to the procedures and standards of this section.

D. **Decision by Planning Director.** Within thirty (30) working days after the Planning Director determines the application is sufficient, the Planning Director shall review the application and shall approve, approve with conditions, or deny the application based upon whether it complies with the standards in Sec. 11.5.E.

E. **Standards for entitlement density**. An entitlement density for the proposed development shall be granted consistent with the entitlement densities permitted in the Land Use Element of the Comprehensive Plan or a minimum of one (1) dwelling unit, provided that the maximum density (dwelling unit per gross acre) as depicted on Figure 2 of the Land Use Element of the Comprehensive Plan is not exceeded, if:

1. A Certificate of Concurrency Reservation has been denied for the proposed development pursuant to the requirements of Sec. 11.4.C., and an appeal to the Development Review Appeals Board has affirmed that decision;

2. The LOS for drainage facilities for the development proposed in the application is met pursuant to the requirements of Sec. 11.4.C.6.d.

3. A plan demonstrates how the proposed development will be designed (a) at its entitlement density and (b) at its allowable density under the Comprehensive Plan and this Code at the time the necessary public facilities are available to adequately serve the development. Any development order issued for an application for development permit for which entitlement density has been approved shall be consistent with the plans for development in this subsection. The review of a plan for development at the allowable density under this section shall in no way reserve capacity for public facilities;

4. Approval of the entitlement density is conditioned on the initiation of development of the proposed project at its allowable density subject to receipt of a Certificate of Concurrency Reservation within two (2) years of the time the necessary public facilities are available to serve the proposed development at its allowable density; and

5. In the Urban Service Area, development orders for development proceeding at entitlement densities may be permitted at rural LOS for potable water and sanitary sewage while the development is at its entitlement density.

F. **Appeal**.

1. **General.** An applicant may appeal any decision of the Planning Director on an application for entitlement density to the Development Review Appeals Board by filing a petition appealing the decision to the Planning Director within ten days of the decision.

2. **Procedure.** The Development Review Appeals Board shall consider the appeal petition within sixty (60) days of its filing. The Development Review Appeals Board shall notify the applicant within ten (10) working days of the hearing and invite the petitioner or the petitioner's representative to attend the hearing. At the hearing, the Development Review Appeals Board shall provide the petitioner and County staff an opportunity to present arguments and testimony. In making its decision, the Development Review Appeals Board shall consider only the record before the Planning Director at the time of the decision, testimony of the petitioner and the petitioner's agent, and testimony of County staff and Service Providers.

3. **Standards.** The Development Review Appeals Board shall reverse the decision of the Planning Director only if there is substantial competent evidence in the record that the decision failed to comply with the standards of Sec. 11.5.E.

SEC. 11.6 CONCURRENCY EXEMPTION EXTENSION.

A. **Short Title.** This Section shall be known as, and may be cited as the "Concurrency Exemption Extension Ordinance of Palm Beach County, Florida."

B. **Authority.** This Section is adopted pursuant to F.S. Chapters 125 and 163; F.A.C. Rule 9J-5; the Florida and U.S. Constitutions; the Palm Beach County Charter; Palm Beach County Ordinance 89-35; and the 1989 Palm Beach County Comprehensive Plan, specifically: (1) Administration, Concurrency and Density Determination for Committed Development; (2) Land Use, Implementation of the Land Use Element, Zoning in Compliance/Activities to be in Conformance with Plan Element Provisions, Section 4: Status of Existing Development Approvals/Non-Conforming Uses, Structures; and (3) Capital Improvement, Policy 2-i(1), 2-j, and 2-l.

C. **Who May Submit Concurrency Exemption Extension Application**

1. **Owner.** An Owner or group of Owners, or the authorized agent of such including the mortgager when property is proven to be in foreclosure and a court order is obtained, may submit an application for a Concurrency Exemption Extension as to particular Parcel or Parcels previously granted a concurrency exemption certificate pursuant to Ordinance 89-35. A Master Property Owner's Association may submit an application as to an area subject to it, provided specific authorization is given to such application in accordance with the declaration, articles, and by-laws.

2. **Agent's Authorization.** An application for an Owner made by an agent shall contain a written authorization signed by the Owner and notarized specifically authorizing the agent to represent the Owner as to the Owner's Lot or Parcel for a review and determination under this Ordinance.

3. **Director of the Palm Beach County Planning Division** may initiate an application for a concurrency exemption extension for a parcel or parcels previously granted a concurrency exemption pursuant to Ordinance No. 89-35.

D. **Procedure**

1. **Submit to Planning.** Applications for Concurrency Exemption Extension shall be submitted to the Planning Division of the Planning, Zoning and Building Department of Palm Beach County no sooner than five (5) months, prior to expiration of a Concurrency Exemption Certificate or Certificate of Extension. Applications will not be accepted after the expiration date of the Concurrency Exemption or Concurrency Exemption Extension Certificate.

2. **Contents of Application.**

a. **Form.** The application shall be made on a form established by the Department of Planning, Zoning and Building and available at the Planning Division.

b. **Information.** The application shall contain such information as the Division requires and as reasonably necessary to provide complete information for a determination under this Ordinance, as determined by the Planning Director including any information adverse to the Applicant.

c. **Sworn Statement.** The Application shall contain a Sworn Statement by the applicant attesting to the truth and accuracy of the information contained therein.

3. **Review.** The Planning Division shall review all applications timely submitted pursuant to this Ordinance. The Planning Division shall review the application to determine whether it is technically complete. Within ten (10) working days of receipt of an application, the Planning Director shall send a letter to the Applicant verifying the completeness, and sufficiency of the information, or requesting additional information. If Additional or revised information is required by the Planning Director, the applicant shall have fifteen (15) working days from the date the letter is sent to submit additional or revised information. If no additional information is submitted in a timely manner, the Director shall determine that the development is not continuing in good faith. The Planning Director shall have ten (10) working days from the date additional or revised information is submitted to determine if the application is complete and a minimum of fifteen (15) working days from the date the application is found complete to make a determination of whether or not Development is continuing in good faith based on the criteria set forth in Section Seven (7) of this Ordinance.

4. **Written Determination.** The Planning Director shall issue either a certificate of extension or letter denying the extension. The determination of the Planning Director shall include a legal description and Property Control Number of the property to which it applies. The Certificate of Extension shall be valid for two years from the date the Planning Director enters the written order granting the extension. A Certificate of Extension is granted for a specific parcel of land and is not transferrable outside of the approved development. A change in ownership of a parcel of land granted concurrency exemption extension shall not extinguish the concurrency exemption extension.

E. **Applicability**

1. This Section is limited to determining whether or not a Project or Lot found exempt from the concurrency provisions of the 1989 Comprehensive Plan pursuant to Ordinance 89-35, the Concurrency Exemption Ordinance, is continuing in good faith and is eligible to remain exempt from the concurrency requirements of the 1989 Comprehensive Plan.

2. All Concurrency Exemptions and Certificates of Extension shall be issued for the number of units or square footage shown on the approved Site Plan or Master Plan most recently certified by the Development Review Committee. For any Master Plan or Site Plan

which was approved for acreage only, the capacity for the approved use shall be calculated by the applicant and affirmed by the Zoning Division and each service provider. Any Concurrency Exemption Certificate or Certificate of Extension shall be adjusted accordingly. Any increase in units above that shown on the current Site Plan/Master Plan shall require a concurrency reservation.

F. Criteria to Determine Whether Development is Continuing in Good Faith

1. Continuing in good faith shall mean, and consideration shall be made of, diligent efforts directed toward achieving the ultimate development, marketing, and use of the land, in accordance with the development order(s). Diligent efforts shall require reasonable and timely pursuit of all necessary approvals, certifications and permits; financing; and marketing, together or in a sequence customary to the industry. Factors militating against a finding of diligent efforts shall be delays occasioned by any person holding a legal or equitable interest in the property, its agents, contractors, or employees acting on behalf of the owner; marketing of the entire project as a whole, unless the project is of such a nature or size that it can only feasibly be marketed as a single unit; the discontinuation of attempts at obtaining required approvals, certifications, and permits; the discontinuation of a construction activity (including clearing, grubbing, filling, excavating, placement of infrastructure, and building construction) prior to the completion of the particular construction activity; delay of proceeding toward the next customary phase of construction activity; the discontinuation of design work; the discontinuation of sales or leasing efforts; the removal of construction personnel, facilities, and equipment from the project; the delay of proceeding with the next phase of development.

   a. The following shall not be considered as factors militating against a finding of proceeding in good faith: (a) delays caused solely by government action or inaction; (b) delays caused by administrative, quasi-judicial or judicial proceedings, which prevent development from occurring; and (c) delays caused by natural disaster or acts of God.

   b. The economic state of the development industry economy shall be considered only as related to the Palm Beach County region and the development industry as a whole and not a particular market segment. Economic conditions shall only be considered for purposes of determining customary practices of local developers as a measure of the diligence and good faith of the Applicant.

   c. Notwithstanding anything contained to the contrary within this Article VII, Development shall be deemed to be continuing in good faith as to a Lot which has been granted a Concurrency Exemption pursuant to Palm Beach County Ordinance 89-35 within a validly divided area which has a Local Government Development Order. Good faith may be presumed provided that all Site Improvements required by the Local Government Development Order, or as required by the Palm Beach County Subdivision Code, as a condition to obtaining a building permit upon the Lot have been installed, and that Development activity in the nature of the construction of new single family

residences has taken place since the granting of the exemption or the extension thereof upon other Lots within the area.

2. In determining whether development is proceeding in good faith, the County shall recognize that land development is a complex task involving a series of governmental approvals. Recognizing this, the following factors shall be considered where relevant:

a. The number and type of development orders applied for or received since the exemption certificate was issued.

b. The relationship of the development orders to other development orders in the sequence of development orders required.

c. Was each development order received within the required time-frame or were time extensions necessary.

d. Were time extensions granted and how many?

e. What, if any, development activity was commenced during each respective time extension?

f. Whether needed permits/approvals (county and others) were actively and continuously pursued.

g. The type of development orders remaining which are needed to complete the land development.

h. The time customarily associated with obtaining various development orders.

i. The percentage of development permitted and completed during the concurrency exemption or extension period compared to the size of the project and the historic average percent of development completed each year.

j. The overall extent and type of development commenced and completed as related to the project's size and use.

k. If the project is phased, were the dates of each phase met.

l. Conditions placed by the County in issuing the development order.

m. Whether any special exception conditions of approval limited or phased the amount of construction due to conditions beyond the property owner's control.

n. Fulfillment of special exception time certain conditions of approval, if any.

o. The marketing practices associated with the project; e.g. whether the entire Project is being marketed as a whole for sale.

p. The reasonable development time-line of that type and size of development.

q. The number and type of contractors, engineers, consultants, tradesman, and professionals working on the project, and their respective activities.

r. Whether any delay was caused by government changing an approved time plan for commencement of construction of infrastructure.

3. **Section 5.8 Compliance with Time Limitations.** Rezoning, revocation of a special exception, class "A" or "B" conditional use, or limiting development intensity or density to entitlement by the Board of County Commissioners pursuant to Section 5.8 of this Code shall be prima facie evidence that the development is not continuing in good faith and any exemption or extension thereto shall be automatically revoked.

G. Approved Residential Projects Holding Concurrency Exemption Certificates

For the following types of residential developments, the Planning Director may initiate an application for a concurrency extension certificate provided the project received a concurrency exemption certificate properly issued pursuant to Ordinance 89-35, as amended and the following criteria are met:

1. A platted subdivision, if all required improvements have been installed or guaranteed.

2. Planned unit development, if platting schedule is maintained.

3. Phased subdivision, if plats are recorded in accordance with an approved phasing schedule.

H. Approved Non-Residential Projects Holding Concurrency Exemption Certificates

For the following types of non-residential developments, the Planning Director may initiate an application for a concurrency extension certificate provided the project received a concurrency exemption certificate issued pursuant to Ordinance 89-35, as amended and the following criteria are met:

A platted non-residential parcel, if all required improvements associated with the plat have been installed or guaranteed.

I. Administrative Appeal

1. **General** - An applicant may appeal a decision of the Planning Director denying Concurrency Exemption Extension by filing a petition with the Planning Director appealing the decision to the Development Review Appeals Board within thirty (30) days of the rendition of the decision by the Planning Director.

2. **Development Review Appeals Board Membership** - The Development Review Appeals Board shall consist of the Executive Director of the Department of Planning, Zoning and Building, the County Attorney and the County Engineer.

3. **Procedure** - The Development Review Appeals Board shall consider the appeal petition within sixty (60) days of filing. In considering the appeal, the Development Review Appeals Board shall consider only the record before the Planning Director at the time of the decision, testimony of the petitioner and the petitioners' agents and testimony of County staff.

4. **Standard** - The Development Review Appeals Board shall reverse the decision of the Planning Director only if there is competent substantial evidence in the record that the application complies with the standards of Sec. 11.6.F.

5. **Written Order** - The decision of the Development Review Appeals Board shall be in writing and a copy of the decision shall be forwarded to the appealing party.

6. **Appeal to Circuit Court** - An applicant may appeal a final decision of the Development Review Appeals Board within thirty (30) days of the rendition of the decision by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

J. Vested rights.

1. **After expiration.** Any application filed after the expiration of the Certificate must demonstrate to the Development Review Appeals Board, by substantial competent evidence, that common law vesting has occurred. A petition may be filed with the Development Review Appeals Board who shall make a determination upon recommendation of the Planning Director.

2. **Appeal to circuit court.** An applicant may appeal a final decision of the Development Review Appeals Board within thirty (30) days of the rendition of the decision by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida."

ARTICLE 12.

DEVELOPMENT AGREEMENTS

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ARTICLE 12.
DEVELOPMENT AGREEMENTS

Please Note

This document has been prepared to serve as the interim copy of the Unified Land Development Code, adopted on June 16, 1992 and effective on June 22, 1992. It has been prepared for use by staff and those persons who refer to the entire Code on a regular basis.

This document is not codified and may contain certain inconsistencies in construction. It should only be used as a guide until a codified copy of the Code is available.

ARTICLE 12.

DEVELOPMENT AGREEMENTS

SEC. 12.1 **PURPOSE AND INTENT.** The purpose and intent of this article is accomplished by authorizing Development Agreements to be entered into between a developer and Palm Beach County and other service providers pursuant to the terms of this article to ensure the adequacy of public facilities and sound capital improvement planning, while providing certainty in the development review process and reducing the economic costs of development.

SEC. 12.2 **AUTHORITY.** The Board of County Commissioners of Palm Beach County has the authority to enter into Development Agreements consistent with the procedures and standards of this article pursuant to Art. VIII, Sec. 1, Fla. Const., the Palm Beach County Charter, Sec. 125.01, et. seq., Fla. Stat., Sec. 163.3161, et. seq., Fla. Stat., and Sec. 163.3220, et. seq., Fla. Stat.. This article is supplemental and additional to the powers conferred on Palm Beach County by law and ordinances other than Sec. 163.3220, et. seq., Fla. Stat., the Florida Local Government Development Agreement Act, and shall not be regarded as being in derogation of any powers now existing.

SEC. 12.3 **APPLICATION.** This article shall apply to all development in the total unincorporated area of Palm Beach County, except that Development Agreements may be entered into between Palm Beach County and a developer regarding land within a municipality in Palm Beach County to comply with any land use regulation of Countywide affect, as authorized by Palm Beach County Charter, Sec. 1.3, as is amended from time to time. A municipality may, but is not required to be a party to a Development Agreement between Palm Beach County and a developer within a municipality.

SEC. 12.4 **PROCEDURE FOR REVIEW OF DEVELOPMENT AGREEMENT.**

A. **Submission of application.** An application for a Development Agreement shall be submitted to the Planning Director in conjunction with or separate from any application for development permit, on a form provided by the Planning Director and made available to the public. The application shall be accompanied by a fee established by the Board of County Commissioners from time to time for the filing and processing of each application. The fee shall be non-refundable.

B. **Determination of sufficiency.** Within fifteen (15) working days of the submission of the application for a Development Agreement, the Planning Director shall determine whether the application is sufficient and includes the information necessary to evaluate the application based on recommendations from applicable service providers.

1. If it is determined that the application is not sufficient, written notice shall be served on the applicant specifying the deficiencies. The Planning Director shall take no further

action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within twenty (20) working days, the application shall be deemed withdrawn.

2. If the application is determined sufficient, the Planning Director shall notify the applicant in writing, of the application's sufficiency, and that the application is sufficient and ready for review pursuant to the procedures and standards of this section.

C. County Department review and recommendation.

1. Concurrent with application for development permit and application for Certificate of Concurrency Reservation. If an application for a Development Agreement is submitted concurrent with an application for a development permit, the application shall be processed consistent with the time frames for review of the application for a development permit when possible.

2. Independent of application for development permit. If an application for a Development Agreement is submitted independent of an application for a development permit, the relevant County Departments or service providers shall prepare and file with the Planning Director within twenty (20) working days of the date the application is determined sufficient, a recommendation on the proposed Development Agreement.

D. Review and Report by Planning Director. Within ten (10) working days after receiving all comments, or prior to the completion of a staff report on an application for development permit, if the proposed Development Agreement is being considered in conjunction with an application for development permit, the Planning Director shall review the application and the proposed Development Agreement, and prepare a report and recommendation as to whether the application and proposed Development Agreement complies with the standards of Sec. 12.5. Upon its completion, the report and recommendation shall be mailed to the applicant by the Planning Director.

E. Decision by Board of County Commissioners.

1. Two (2) public hearings. After the Planning Director has made a recommendation on the proposed Development Agreement, the proposed Development Agreement shall be considered at two (2) public hearings.

a. The first public hearing shall be held before the Local Planning Agency who shall review the application, the proposed Development Agreement, the recommendation of the Planning Director, and public testimony, and recommend its approval or denial. The day, time and place at which the second public hearing will be held shall be announced at the first public hearing.

b. The second public hearing shall be before the Board of County Commissioners, who, after review and consideration of the proposed Development Agreement, the recommendations of the Planning Director and the Local Planning Agency, and public testimony, shall approve, approve with conditions, or disapprove the Development Agreement. The second public hearing shall be a minimum of

seven (7) calendar days after the first public hearing. The day, time, and place of the second public hearing shall be announced at the first public hearing.

2. Notice.

a. General requirement. Notice of intent to consider the proposed Development Agreement shall be advertised by the County publishing an advertisement approximately seven (7) calendar days before each public hearing on the proposed Development Agreement in a newspaper of general circulation and readership in Palm Beach County. Courtesy notice of intent to consider the proposed Development Agreement shall also be mailed by the County using envelopes and postage provided and prepared by the applicant at least fifteen (15) calendar days prior to the first public hearing on the proposed Development Agreement by certified mail, return receipt requested, to all owners of property, as reflected on the current year's tax roll, lying within three hundred (300) feet of the property directly affected by the proposed Development Agreement. Such mailed notice shall be coordinated with and combined with a notice required for an application for development permit, if relevant and appropriate.

b. Form. The form of the notices of intention to consider adoption of a Development Agreement shall specify:

(1) Time and place. The time and place of each hearing on the proposed Development Agreement;

(2) Location. The location of the land subject to the proposed Development Agreement;

(3) Uses and intensities. The development uses proposed on the property, including the proposed population densities and proposed building intensities and height;

(4) Where copy can be obtained. Instructions for obtaining further information regarding the proposed Development Agreement.

3. Decision. At the conclusion of the second public hearing, and based upon consideration of the proposed Development Agreement, the recommendation of the Planning Director and the Local Planning Agency, and public testimony received during the public hearing, the Board of County Commissioners shall approve, approve with conditions, or deny the proposed Development Agreement based upon whether it complies with the standards in Sec 12.5.

SEC. 12.5 STANDARDS OF A DEVELOPMENT AGREEMENT. A Development Agreement shall, at a minimum, include the following provisions:

A. **Legal description and owner**. A legal description of the land subject to the Development Agreement and the names of the legal and equitable owners;

B. **Duration**. The duration of the Development Agreement, which shall not exceed five (5) years. It may be extended by mutual consent of the Board of County Commissioners of Palm Beach County and the developer, subject to a public hearing;

C. **Uses, densities, intensities and height**. The development uses permitted on the land including population densities, building intensities and height;

D. **Future land use designation**. The land use designation of the land under the Future Land Use Element of the Comprehensive Plan;

E. **Zoning district designation**. The current zoning district designation of the land subject to the Development Agreement;

F. **Conceptual site plan**. A conceptual site plan indicating phases if the development is subject to phasing;

G. **Public facility adequacy**. A description of public facilities that will service the development, including who shall provide such facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impact of the development. Any public facilities to be designed and/or constructed by the developer shall be in compliance with all applicable Federal, State, and County standards to ensure the quality of the public facilities. The standards shall include, but not be limited to, guarantees of performance and quality, and project controls (including scheduling, quality controls, and quality assurances);

H. **Reservation or dedication of land**. A description of any reservations or dedications of land for public purposes;

I. **Local development permits**. A description of all local development orders approved or development permits needed to be approved for development of the land;

J. **Local development permits obtained by applicant/property owner**. A provision that all local development permits identified in Sec. 12.5.I shall be obtained at the sole cost of the developer/applicant and, that in the event that any such local development permits are not received, no further development of the land shall be allowed until such time as the Board of County Commissioners has reviewed the matter and determined whether or not to terminate the Development Agreement, or to modify it in a manner consistent with the public interest and the Comprehensive Plan;

K. **Consistency with the Comprehensive Plan**. A finding that the development permitted or proposed in the Development Agreement is consistent with the Comprehensive Plan;

L. Consistency with this Code. A finding that the development permitted or proposed in the Development Agreement is consistent with this Code;

M. Compliance with laws not identified in Development Agreement. A statement indicating that failure of the Development Agreement to address a particular permit, condition, term or restriction shall not relieve the applicant of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions, and that any matter or thing required to be done under the existing laws of Palm Beach County shall not be otherwise amended, modified or waived unless such modification, amendment or waiver is expressly provided for in the Development Agreement with specific reference to the provisions so waived, modified or amended;

N. Breach. The terms and conditions that govern a breach of the Development Agreement; and

O. Conditions necessary to ensure compliance with this Code and Comprehensive Plan. Such conditions, terms, restrictions or other requirements determined to be necessary by the Board of County Commissioners to ensure compliance with this Code and consistency with the Comprehensive Plan.

SEC. 12.6 EXECUTION OF DEVELOPMENT AGREEMENT. A Development Agreement shall be executed between Palm Beach County, service providers and all persons having legal or equitable title in the land subject to the Development Agreement, including the fee simple owner and any mortgagees.

SEC. 12.7 RECORDATION. Within fourteen (14) calendar days after Palm Beach County enters into a Development Agreement pursuant to this article, the Clerk to the Board of County Commissioners shall record the executed Development Agreement in the public records of Palm Beach County. A copy of the recorded and executed Development Agreement shall be submitted to the Department of Community Affairs within fourteen (14) calendar days after the Development Agreement is recorded. If the Development Agreement is amended, canceled, modified, extended, or revoked, the Clerk shall have notice of such action recorded in the public records and such recorded notice shall be submitted to DCA.

SEC. 12.8 AMENDMENT OR CANCELLATION OF DEVELOPMENT AGREEMENT BY MUTUAL CONSENT. A Development Agreement may be amended or canceled by mutual consent of the parties (the Board of County Commissioners and the developer) subject to the Development Agreement, or by their successors in interest. Prior to amending a Development Agreement, the Board of County Commissioners shall hold two (2) public hearings on the proposed amendment, consistent with the requirements of Sec. 12.4.E. An amendment to a Development Agreement does not necessarily require an amendment to a development order for which the Development Agreement has been approved by the Board of County Commissioners.

SEC. 12.9 **LEGISLATIVE ACT.** A Development Agreement is determined to be a legislative act of Palm Beach County in the furtherance of its powers to plan and regulate development, and as such, shall be superior to the rights of existing mortgagees, lien holders or other persons with a legal or equitable interest in the land subject to the Development Agreement, and the obligations and responsibilities arising thereunder on the property owner shall be superior to the rights of said mortgagees or lien holders and shall not be subject to foreclosure under the terms of mortgages or liens entered into or recorded prior to the execution and recordation of the Development Agreement.

SEC. 12.10 **EFFECT OF EXISTING LAWS ON LANDS SUBJECT TO DEVELOPMENT AGREEMENT.**

A. **Local laws at time of approval govern.** Upon the approval of a Development Agreement, the laws, codes, and policies of Palm Beach County in effect at the time of execution of the Development Agreement shall govern the development of the land, subject to the terms of the Development Agreement, and for the duration of the Development Agreement.

B. **Exceptions to local law requirements.** Palm Beach County may apply subsequently adopted laws to the lands that are subject to a Development Agreement only if the Board of County Commissioners holds one (1) public hearing noticed pursuant to the requirements of Sec. 12.4.E.2. and determines any one (1) of the following:

1. **Not in conflict with laws governing Development Agreement.** The subsequently adopted laws are not in conflict with the laws governing the Development Agreement, and do not prevent development of the land uses, intensities, or densities in the Development Agreement;

2. **Essential to public health, welfare and safety.** The subsequently adopted laws are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a Development Agreement;

3. **Anticipated and provided for in Development Agreement.** The subsequently adopted laws are specifically anticipated and provided for in the Development Agreement;

4. **Substantial changes in conditions.** Palm Beach County demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the Development Agreement; or

5. **Substantially inaccurate information.** The Development Agreement is based on substantially inaccurate information supplied by the developer.

SEC. 12.11 **EFFECT OF CONTRARY STATE OR FEDERAL LAWS.** In the event that state and federal laws are enacted after the execution of a Development Agreement which are applicable to and preclude the parties compliance with the terms of the Development Agreement, such Development Agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws. Such modification or revocation shall occur only after notice and public hearing pursuant to Sec. 12.4.E.

SEC. 12.12 **PERIODIC REVIEW.**

A. Annual review. The Board of County Commissioners shall review the development subject to the Development Agreement every twelve (12) months, commencing twelve (12) months after the effective date of the Development Agreement.

B. Initiation. The annual review shall be initiated by the developer subject to the Development Agreement submitting an annual report to the Planning Director. The initial annual report shall be submitted by the developer eleven (11) months after the effective date of the Development Agreement, and every twelve (12) months thereafter.

C. Compliance. If the Planning Director finds and determines that the developer has complied in good faith with the terms and conditions of the Development Agreement during the period under review, the review for that period is concluded.

D. Failure to comply. If the Planning Director makes a preliminary finding that there has been a failure to comply with the terms of the Development Agreement, the Development Agreement shall be referred to the Board of County Commissioners, who shall conduct two (2) public hearings pursuant to the requirements of Sec. 12.4.E., at which the developer may demonstrate good faith compliance with the terms of the Development Agreement. If the Board of County Commissioners finds and determines during the public hearings, on the basis of substantial competent evidence, that the developer has not complied in good faith with the terms and conditions of the Development Agreement during the period under review, the Board of County Commissioners may modify or revoke the Development Agreement.

SEC. 12.13 **ENFORCEMENT.** Any party or any aggrieved or adversely affected person may file an action for injunctive relief in the Circuit Court for Palm Beach County to enforce the terms of a Development Agreement or to challenge compliance of the Development Agreement with the provisions of this article and Sec. 163.3220, Fla. Stat.

ARTICLE 13.

NONCONFORMITIES

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Please Note

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ARTICLE 13.

NONCONFORMITIES

SEC. 13.1 GENERAL

A. Purpose and intent. Within the provisions established by this Code, there exist uses of land, structures and lots that were lawfully established before this Code was adopted or amended, that now do not conform to the terms and requirements of this Code. The purpose and intent of this section is to regulate and limit the continued existence of those uses, structures and lots that do not conform to the provisions of this Code or any amendments thereto, and where possible bring the use into conformance with this Code.

B. General. It is the intent of this section to permit these nonconformities to continue, but not to allow nonconformities to be enlarged or expanded, except under the limited circumstances established in this article. The provisions of this article are designed to curtail substantial investment in nonconformities to preserve the integrity of this Code and the Comprehensive Plan.

SEC. 13.2 NONCONFORMING USES.

There are two (2) classes of nonconforming uses: major and minor. A nonconforming use is designated as major when it is established in a zoning district where the use is prohibited and the location is so significantly inappropriate that its location creates or threatens to create incompatibilities potentially injurious to the public welfare. Therefore, strict limits are set forth in this section for the expansion and continuation of major nonconforming uses. A minor nonconforming use is prohibited in the district in which it is located, 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. A nonconforming use shall either be a major nonconforming use or minor nonconforming use as identified in Table 13.2-1.

A. Major Nonconforming Use.

1. Normal maintenance or repair. Normal maintenance or repair of structures where major nonconforming uses are located may be performed in any period of twelve (12) consecutive months, as well as repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding twenty (20) percent of the current assessed value of the structure.

2. Enlargement or expansion. A major nonconforming use shall not be enlarged or expanded in area occupied, except a major nonconforming use may be enlarged in any area of a structure that was manifestly designed and approved for such use, prior to the date the use became a nonconformity.

3. Relocation. A structure containing a major nonconforming use shall not be moved in whole, or in part, to another location on or off the parcel of land on which it is located, unless the relocation of the structure containing the major nonconforming use decreases the nonconformity.

4. Change in use. A major nonconforming use shall not be changed to any other use, unless any new or additional use conforms to the provisions of this Code for the zoning district in which the use is located. A major nonconforming use physically superseded by a permitted use shall not be reestablished.

5. Discontinuance or abandonment. If a major nonconforming use is discontinued, abandoned, or becomes an accessory use for a period of more than six (6) consecutive months or for eighteen (18) months during any three (3) consecutive years, then such use may not be re-established or resumed, and any subsequent use shall conform to the provisions specified by this Code. When government action can be documented as the reason for discontinuance or abandonment, the time of delay by government shall not be calculated for the purpose of this section.

B. Minor Nonconforming Use.

1. Normal maintenance or repair. Normal maintenance or repair of structures where minor nonconforming uses are located may be performed in any period of twelve (12) consecutive months, as well as repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding thirty (30) percent of the current assessed value of the structure.

2. Enlargement or expansion. A minor nonconforming use may be enlarged or expanded as follows:

a. A minor nonconforming use prohibited in the district in which it is located may expand on one (1) occasion, through the administrative variance process as established in Sec. 5.7.G. The administrative variance shall be permitted provided that the enlargement or expansion complies with Art. 11, Adequate Public Facilities Standards, would not exceed ten (10) percent of the floor area of the structure or appraised value of the structures on site, whichever is less, and the expansion does not create a nonconforming structure.

b. 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 of this Code.

The request shall be permitted provided all of the following apply:

(1) The enlargement or expansion would not exceed thirty (30) percent of the floor area of the structure or appraised value of the structures on site, whichever is less;

(2) The expansion does not create any additional nonconformities;

(3) The use and expansion are in compliance with Article 11, Adequate Public Facilities Standards;

(4) The use and the expansion complies with Environmental Control Rules I and II;

(5) The use and the expansion will result in a reduction of nonconforming features to the greatest extent practicable;

(6) The use and the expansion will comply with the landscape, vegetation preservation and protection, and lighting provisions of this Code; and,

(7) The use and the expansion will comply with Article 7.9, Traffic Performance Standards.

3. Relocation. A structure containing a minor nonconforming use shall not be moved in whole, or in part, to another location on or off the parcel of land on which it is located, unless the relocation of the structure containing the minor nonconforming use decreases the nonconformity.

4. Change in use. A minor nonconforming use shall not be changed to any other use, unless any new or additional use conforms to the provisions of this Code for the zoning district in which the use is located. A minor nonconforming use that is physically superseded by a permitted use shall not be reestablished.

5. Discontinuance or abandonment. If a minor nonconforming use is discontinued, abandoned, or becomes an accessory use for a period of more than six (6) consecutive months or for eighteen (18) months during any three (3) consecutive years, then such use may not be re-established or resumed, and any subsequent use shall conform to the provisions specified by this Code. When government action can be documented as the reason for discontinuance or abandonment, the time of delay by government shall not be calculated for the purpose of this section.

Table 13.2-1
Schedule of Nonconforming Uses

Land Use*	Zoning Districts																							
	PC	AGR	AP	SA	RESR	AR	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CC	CG	CGO	CLO	CRE	IL	IG	PIPD	PO
AGRC[1]	A	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
RSF[2]	A	B	B	B	B	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	B	B	B	B
MH[4]	A	B	B	B	B	B	B	B	B	B	B	A	B	B	B	B	B	B	B	A	B	B	B	B
Comm-<25[5]	A	A	A	B	B	A	A	A	A	A	A	A	B	B	B	B	B	B	B	A	B	B	B	B
Comm->25[6]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	A	A	A	B	B	B	B
OFF[7]	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	B	B	A	B	B	B	B
L-Ind[8]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	A
H-Ind[9]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	A
Inst[10]	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	B	B	B	B	B	B	B	B

Note:

* 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.
** "A" constitutes a Major Nonconforming Use.
*** "B" constitutes a Minor Nonconforming Use.
1. AGRC means an Agricultural land use.
2. RSF means a Residential Single Family land use.
3. RMF means a Residential Multi Family land use.
4. MH means a Mobile Home land use.
5. Comm-<25 means a Commercial land use of less than 25,000 sq ft.
6. Comm->25 means a Commercial land use of greater than 25,000 sq ft.
7. OFF means an Office land use.
8. L-Ind means a Light Industrial land use.
9. H-Ind means a Heavy Industrial land use.
10. Inst means an Institutional land use.

SEC. 13.3 NONCONFORMING STRUCTURES. A nonconforming structure devoted to a use permitted in the zoning district in which it is located, may be continued in accordance with the provisions in this section.

A. Normal maintenance. Normal maintenance or repair to permit continuation of a nonconforming structure may be performed in any period of twelve (12) consecutive months, as well as repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding twenty (20) percent of the current assessed value of the structure.

B. Enlargement or expansion. A nonconforming structure may be enlarged or expanded if the enlargement or expansion meets the requirements of this Code (except the dimensional lot area requirements of the zoning district in which it is located), as long as the enlargement or expansion does not change or increase the nonconformity, or add structures or uses prohibited in the zoning district.

C. Relocation. A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless it conforms to the standards and requirements of the zoning district in which it is located.

D. Damage and restoration of nonconforming structure.

1. A nonconforming structure that is reconstructed, destroyed or rebuilt by any means to an extent of more than thirty (30) percent of its value at the time of reconstruction, or destruction, shall not be reconstructed except in conformity with the provisions of this Code. This subsection shall apply to the cumulative changes in value as a nonconforming structure is redeveloped and improved over the previous seven (7) years.

2. The value of the nonconforming structure shall be determined by taking one hundred twenty-five (125) percent of the most recent assessed value of the nonconforming structure, as determined by reference to the records of the Palm Beach County Property Appraiser.

3. In determining whether the value of the improvement exceeds thirty (30) percent of the property's value, the "aggregate cost approach" as outlined in the most current building valuation data published by the Southern Building Code Congress International in the periodical "Southern Building," or other comparable guidelines adopted in law or accepted in practice by the Building Director, shall be used as the sole basis for calculation.

4. Should a nonconforming structure be reconstructed, destroyed and rebuilt by any means to an extent less than thirty (30) percent but more than twenty (20) percent of its assessed value, it may be restored only upon application to the Board of Adjustment as a variance request pursuant to the terms in Sec. 5.7.

5. To establish its jurisdiction over the variance request, the Board of Adjustment shall determine whether the valuation falls within the parameters established in this subsection. If it does, the Board of Adjustment shall determine whether the nonconforming structure can function adequately without meeting the Code requirements that render it a nonconforming structure.

6. In making its determination, the Board of Adjustment shall be guided by the following standards:

   a. The degree of nonconformity of the structure;

   b. If the nonconformity will continue, whether the relationships among the various design elements of the lot, parcel or structure (such as parking, landscaping, vehicular circulation, or access points) are adequate to meet minimum health and safety standards;

   c. Whether continuation of the nonconforming structure will create or contribute to a health and safety hazard in or adjacent to the nonconforming structure; and

   d. Whether the nonconforming structure can be reduced in intensity or redesigned to mitigate the effects of the nonconformity.

E. Unsafe structure. Any portion of a nonconforming structure which becomes physically unsafe or unlawful due to lack of repairs and maintenance, and which is declared unsafe or unlawful by a duly authorized County official, but which an owner wishes to restore, repair, or rebuild, shall be restored, repaired, or rebuilt in conformity with the provisions of this Code.

SEC. 13.4 NONCONFORMING LOTS.

A. Residential development. A single family dwelling and customary accessory uses may be developed on a single lot, if all of the following conditions are met:

1. Development permissible prior to creation of nonconformity. Development of a single family dwelling and customary accessory uses were permissible under the applicable Code at the time the single lot was created.

2. Record of creation. The single lot was:

   a. Of record or was the subject of a recorded agreement for deed or other recorded instrument of conveyance prior to January 23, 1973. Lots created by conveyance after this date shall be reviewed by the County Engineer for compliance with Art. 8, Subdivision, Platting and Required Improvements; or

   b. Shown on a recorded map, plat, drawing or survey prior to the adoption of this Code; or

   c. Determined to be a lot within an antiquated subdivision as determined by the Comprehensive Plan; and

   d. Not subject to the lot recombination requirements of Art. 8., Subdivision, Platting and Required Improvements, or the Comprehensive Plan.

   e. Legally subdivided prior to the adoption of this Code.

3. **Property development regulations.** The proposed use is permitted and the single lot meets the minimum property development regulations that are generally applicable in the zoning district in which it is located, except for the minimum lot area and dimensions, minimum yard setback requirements, maximum lot coverage and maximum total floor area. If the single lot, tract or parcel of land does not meet the setback and lot coverage regulations of the underlying zoning district, it shall conform to the following minimum yard setback, and maximum lot coverage requirements.

   a. Minimum Yard Setback Requirements[1].

Front	30% of depth.
Side (corner)	20% of width.
Side (interior)	15% of width.
Rear	20% of depth.

   b. Maximum Lot Coverage: 40% of total lot area.

   [1] For lots one and one quarter (1¼) acre or smaller, a twenty-five (25) foot setback may be substituted for any of the percentage setback.

B. **Non-residential development.** All non-residential development and customary accessory uses may be developed on a single lot if all of the following conditions are met:

1. **Development permissible prior to creation of nonconformity.** Development of the non-residential development and customary accessory uses were permissible under the applicable Code at the time the single lot was created.

2. **Record of creation.** The single lot was:

   a. Of record or was the subject of an agreement for deed which was recorded or proof of agreement is furnished, or other recorded instrument of conveyance prior to January 23, 1973. Lots created by conveyance after this date shall be reviewed by the County Engineer for compliance with Art. 8, Subdivision, Platting and Required Improvements; or

   b. Shown on a recorded map, plat, drawing or survey prior to the adoption of this Code; or

   c. Determined to be a lot within an antiquated subdivision as determined by the Comprehensive Plan; and

   d. Not subject to the lot recombination requirements of Art. 8., Subdivision, Platting and Required Improvements.

   e. Legally subdivided prior to the adoption of this Code.

3. **Property development regulations.** The proposed use is permitted, and the single lot meets the minimum property development regulations that are generally applicable in the zoning district in which it is located or obtains a variance pursuant to the requirements of Sec. 5.7.

C. **Zoning district amendment on lots of record.** When amending the zoning district designation of a portion of a single lot of record, that portion proposed for amendment shall be subject to the density or intensity requirements of the Comprehensive Plan.

SEC. 13.5 NONCONFORMITIES CREATED BY EMINENT DOMAIN PROCEEDINGS.

A. **Authority to gain certificate of conformity.** A structure or lot that is rendered or will be rendered nonconforming because of eminent domain proceedings initiated by a governmental authority, by the sale of a parcel of land under the threat of eminent domain proceedings, or dedication or conveyance of property for public purposes as a requirement of a development order, shall be considered conforming under the terms of this Code through the receipt of a Certificate of Conformity pursuant to the terms of this section. A Certificate of Conformity may authorize the relocation of existing conforming or nonconforming structures with modifications to property development regulations. Issuance of a Notice of Intent to Issue a Certificate of Conformity only indicates that a Certificate of Conformity is available to the property owner.

B. **Applicability.** Either the Condemnor, condemnee or property owner may submit an application requesting a Notice of Intent to Issue a Certificate of Conformity, pursuant to the terms of this section.

C. **Procedure.**

1. **Submission of application.** A Condemnor, property owner, or Condemnee may submit an application requesting a Notice of Intent to Issue a Certificate of Conformity to the Zoning Director either before or after any conveyance, or before or after the first negotiation/appraisal of the Condemnor or the Order of Taking in the eminent domain proceeding, or after the sale of a parcel of land under the threat of an eminent domain proceeding.

2. **Contents of application.** The application form shall be established by the Zoning Director and made available to the public and shall include the following:

   a. A legal description of the property subject to the eminent domain proceeding, conveyance, development condition requiring conveyance or sold under the threat of an eminent domain proceeding;

   b. The name and address of the owner of the property;

   c. The name and address of the Condemnor, and the name and address of the Condemnor's representative;

   d. If relevant, proof of the actual or impending eminent domain proceeding by a Notification of Condemnation, Demand Letter, or Resolution or Ordinance of the Condemnor;

   e. A certified survey , no greater than one (1) year old, of the property to be conveyed or subject to the eminent domain proceeding or sold under the threat of an eminent domain proceeding, that demonstrates the extent of the condemnor's acquisition, and all principal and accessory structures on the property;

f. A site plan of the property to be conveyed or subject to the eminent domain proceeding or sold under the threat of an eminent domain proceeding at a scale of not less than 1" = 30', showing: (1) the location of all structures and improvements on the property; and (2) the extent of the condemnor's acquisition;

g. An explanation of why the Notice of Intent to Issue a Certificate of Conformity should be granted;

h. Proof that notification of the application has been provided to the other party (Condemnor or Condemnee, whichever is relevant);

i. The application fee, as is established by resolution of the Board of County Commissioners; and

j. Any other application needs that the Zoning Director deems necessary to evaluate the application.

3. Determination of sufficiency. The Zoning Director shall determine if the application is sufficient within five (5) working days of its receipt.

a. If the Zoning Director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No further action shall be taken on the application until the deficiencies are remedied. If the deficiencies are not remedied within twenty (20) working days, the application shall be considered withdrawn.

b. If the application is determined sufficient, the Zoning Director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

4. Review and Action by Development Review Committee. Within fifteen (15) working days after the application is determined sufficient, the Development Review Committee shall review the application and approve, approve with conditions or deny the application based on the standards established in Sec. 13.5.D.

5. Effect on Notice of Intent to Issue a Certificate of Conformity.

a. General. Issuance of a Notice of Intent to Issue a Certificate of Conformity shall authorize the Zoning Director to issue a Certificate of Conformity to the property owner.

b. Issuance of Certificate of Conformity. The Zoning Director shall issue a Certificate of Conformity only upon the receipt of the property owner's approval, in the form of their signature, to issue the Certificate of Conformity. The site plan and any conditions associated with the Notice of Intent to Issue a Certificate of Conformity are enforceable upon the issuance of a Certificate of Conformity.

c. Amendments to the Certificate. Amendments to a Certificate of Conformity shall be made following the procedures herein.

D. **Standards.** An application requesting a Notice of Intent to Issue a Certificate of Conformity shall be granted if the following standards are met.

1. **Minimization of business and severance damage.** If the condemnation action has not been decided by a court of law, the amount of severance and business damages resulting from the eminent domain proceedings are substantial, and the loss of business damages would be minimized by the issuance of a Certificate of Conformity;

2. **Site plan that minimizes nonconformities while ensuring land use compatibility.** A site plan can be designed for the property which is consistent with the use requirements of this Code, that minimizes to the greatest degree practicable any nonconformities of all site design elements of this Code; and

3. **Function adequately.** The structure or lot can function adequately for its designated land use pursuant to the site plan proposed in Sec. 13.5.D.2.

E. **Form.** The decision on the application for a Notice of Intent to Issue a Certificate of Conformity shall be in writing and shall be sent to the applicant by certified mail.

F. **Official record.** The Zoning Director shall maintain an official record of the applications for Notice of Intent to Issue a Certificate of Conformity in the Zoning Division, which shall be available for public inspection during normal business hours.

ARTICLE 14.

ENFORCEMENT PROCEEDINGS AND PENALTIES

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ENFORCEMENT PROCEEDINGS AND PENALTIES

Please Note

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ARTICLE 14.

ENFORCEMENT PROCEEDINGS AND PENALTIES

SEC. 14.1 GENERAL. The provisions of this Code shall be enforced by(1) the Palm Beach County Code Enforcement Board pursuant to the authority granted by Sec. 162.01 et. seq., Fla. Stat., (2) the Palm Beach County Environmental Control Hearing Board pursuant to the Palm Beach County Environmental Control Act, Chapter 77-616, Special Acts, Laws of Florida, (3) the Palm Beach County Groundwater and Natural Resources Protection Board, an alternate code enforcement board created pursuant to the authority granted by Sec. 162.03(2) et. seq., Fla. Stat., (4) the Board of County Commissioners through its authority to enjoin and restrain any person violating the Code, or (5) Palm Beach County through the prosecution of violations in the name of the State of Florida pursuant to the authority granted by Sec. 125.69, Fla. Stat.

SEC. 14.2 ENFORCEMENT BY CODE ENFORCEMENT BOARD. The Enforcement Board shall have the jurisdiction and authority to hear and decide alleged violations of the codes and ordinances enacted by Palm Beach County including, but not limited to the following codes: building, electrical, fire, gas, landscape, plumbing, sign, zoning and any other similar type codes which may be passed by Palm Beach County in the future which regulate aesthetics, construction, safety, or location or any structure on real property in Palm Beach County. Further, any violation(s) of Articles 1 through 8 and Articles 10 through 12, except Secs. 7.5 and 7.6, of this Code may be prosecuted by the Code Enforcement Board pursuant to the following standards and procedures.

A. Procedure; hearings. Alleged violation of any of those codes or ordinances of Palm Beach County as described herein may be filed with the Code Enforcement Division by citizens or those administrative officials who have the responsibility of enforcing the various codes or ordinances in force in Palm Beach County.

1. If violation(s) of a code or ordinance is believed to exist, the Code Enforcement Division shall specify a reasonable time to correct the violation(s). Should the violation(s) continue beyond the time specified for correction, the Code Enforcement Division shall give notice to the alleged violator that an Enforcement Board hearing will be conducted concerning the alleged violation(s) as noticed. The notice shall state the time and place of the hearing, as well as the violation(s) which are alleged to exist.

2. At the hearing, the burden of proof shall be upon the Code Enforcement Division to show by a preponderance of the evidence that a violation(s) does exist. Where proper notice of the hearing has been provided to the alleged violator as provided for herein, a hearing may proceed even in the absence of the alleged violator.

3. Proper notice may be assumed where a notice of violation has been mailed to the alleged violator by certified mail and the alleged violator, his or her agent, or other person in the household or business has accepted the notice of violation, or where a Code Enforcement Officer, under oath testifies that he/she did hand deliver the notice to the alleged violator. All testimony shall be under oath and shall be recorded. The formal rules of evidence shall not apply but fundamental due process should be observed and govern the proceedings. Upon determination of the Chairperson, irrelevant, immaterial or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form.

4. Any member of the Enforcement Board, or the attorney representing the Enforcement Board, may inquire of or question any witness before the Enforcement Board. Any member of the Enforcement Board, an alleged violator (hereinafter also referred to as respondent) his/her attorney, or Code Enforcement Officers shall be permitted to inquire of any witness before the Enforcement Board. The Enforcement Board may consider testimony presented by Code Enforcement Officers, the respondent or any other witnesses.

5. At the conclusion of the hearing, the Enforcement Board shall orally render its decision (order) based on evidence entered into the record. The decision shall be by motion approved by the affirmative vote of those members present and voting, except that at least four (4) members of the Enforcement Board must vote for the action to be official. The Enforcement Board's decision shall then be transmitted to the respondent in the form of a written order including finding of facts, and conclusions of law consistent with the record. The order shall be transmitted by certified mail to the respondent within ten (10) days after the hearing.

B. **Powers.** The Enforcement Board shall have the power to:

1. Adopt rules for the conduct of its hearings.

2. Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by a Sheriff or other authorized persons consistent with Rule 1.410(c), Florida Rules of Civil Procedure upon request by the Chairperson.

3. Subpoena records, surveys, plats and other documentary materials.

4. Take testimony under oath.

5. Issue orders having the full force and effect of law to command whatever steps are necessary to bring a violation into compliance.

6. Assess fines pursuant to Sec. 14.2.C (Administrative fines; liens) of this Article.

7. Lien property pursuant to Sec. 14.2.C (Administrative fines; liens) of this Article.

C. Administrative fines; liens.

1. Whenever one of the Enforcement Board's orders has not been complied with by the time set for compliance, or if the same violation has been repeated by the same violator, the Enforcement Board may order the violator to pay a fine not to exceed two-hundred fifty dollars ($250.00) for each day thereafter during which each violation continues past the date set for compliance, and up to five hundred dollars ($500) for each day for a repeat violation. In determining the amount of a fine, the Enforcement Board shall 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. The Enforcement Board may consider any other factors pertaining to the violator or violation(s) which it deems relevant and shall not be limited to the above recited factors.

2. The Director of the Code Compliance Division or his/her designee 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, upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment, 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 Enforcement Board lien.

3. 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.

D. Appeal. Any aggrieved party may appeal an order of the Enforcement Board, including Palm Beach County, to the Circuit Court of Palm Beach County, Florida. Such appeal shall not be a hearing de novo, but shall be a petition for Writ of Certiorari and the Court shall be limited to appellate review of the record created before the Enforcement Board. Any appeal filed pursuant to this Article shall be considered timely if it was filed within thirty (30) days after the hearing at which the order was announced. The County may assess a reasonable charge for the preparation of the record to be paid by the petition in accordance with §119.07, Florida Statutes.

E. Notices. All notices required by this ordinance shall be by certified mail, return receipt requested, or when mail is not effective, by hand delivery by a Code Enforcement Officer. Notice may also be provided by publication or posting, consistent with the provisions of Chapter 162, Florida Statutes. This section shall not apply to notice of special meetings as described in Article 4 of this Code. Notice placed shall contain at a minimum, the date, and time of the scheduled meeting of the Enforcement Board during which time the alleged violator is required to appear; the name and address of the alleged violator; the address or legal description of the property wherein the alleged violation(s)s has occurred; and those codes or provisions of a code for which the alleged violator has been cited.

SEC. 14.3 GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD. Any violation of Art. 9 (except Sec. 9.4) , Sec. 7.5, or Sec. 7.6, of this Code may be referred by ERM and prosecuted by the Groundwater and Natural Resources Protection Board pursuant to the following standards and procedures.

A. Warning of violation. If an alleged violation of Art. 9 (except Sec. 9.4), Sec. 7.5 or Sec. 7.6 of this Code is found, the Director of ERM shall notify the alleged property owner and/or violator and give the alleged property owner and/or violator reasonable time to correct the violation. If the alleged violation is causing irreparable and irreversible harm, the Director of ERM shall make a reasonable effort to notify the violator and may immediately notice the Groundwater and Natural Resources Protection Board and request a hearing.

B. Issuance of violation citation. Should the violation continue beyond the time specified for correction, or irreparable and irreversible harm has occurred, the Director of ERM shall issue a Notice of Hearing to the alleged property owner and/or violator which shall include a reference to the particular section of Article 9, Sec. 7.5, or Sec. 7.6 that is allegedly violated, and the date and time of the hearing.

C. Notice of hearing. A Notice of Hearing shall be provided to the alleged violator by hand delivery, certified mail (return receipt requested) or left at the alleged property owners and/or violators usual place of residence with any person residing therein who is above fifteen (15) years of age and informed of the contents of the notice. The Notice of Hearing shall contain a statement of the time, place and nature of the hearing before the Groundwater and Natural Resources Protection Board.

D. Correction of violation. If the alleged violation is corrected and then recurs, or if the violation is not correct by the time specified for correction, the Director of ERM may issue a Violation Citation and a Notice of Hearing to the alleged property owner and/or violator and schedule a hearing. The Groundwater and Natural Resources Protection Board may hear the alleged violation in this instance, even if it has been corrected prior to the Board hearing and every notice shall so state.

E. Counsel. The County Attorney shall be counsel to the Groundwater and Natural Resources Protection Board.

F. **Procedure at hearings**. Alleged violations of any of those sections described herein may be filed with the Groundwater and Natural Resources Protection Board by citizens or those officials who have the responsibility of enforcing such sections.

1. The Groundwater and Natural Resources Protection Board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. Each case before the Groundwater and Natural Resources Protection Board shall be presented by the Director of ERM. The Groundwater and Natural Resources Protection Board shall take testimony from County staff, if relevant, the alleged property owner and/or violator, and other relevant testimony. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. Upon determination of the chairperson, irrelevant, immaterial or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. The burden of proof shall be upon the Director of ERM to show by a preponderance of the evidence that a violation does exist.

2. Any member of the Groundwater and Natural Resources Protection Board, or the attorney representing the Groundwater and Natural Resources Protection Board, may inquire of or question any witness before the Groundwater and Natural Resources Protection Board. Any member of the Groundwater and Natural Resources Protection Board, an alleged violator (hereinafter also referred to as respondent) his/her attorney, or Code Officers shall be permitted to inquire of any witness before the Groundwater and Natural Resources Protection Board. The Groundwater and Natural Resources Protection Board may consider testimony presented by ERM, the respondent or any other witnesses.

3. At the conclusion of the hearing, the Groundwater and Natural Resources Protection Board shall orally render its decision (order) based on evidence entered into the record. The decision shall be by motion approved by the affirmative vote of those members present and voting, except that at least four (4) members of the Groundwater and Natural Resources Protection Board must vote for the action to be official. The Groundwater and Natural Resources Protection Board's decision shall then be transmitted to the respondent in the form of a written order including finding of facts, and conclusions of law consistent with the record. The order shall be transmitted by certified mail to the respondent within ten (10) days after the hearing.

G. **Powers**. The Groundwater and Natural Resources Protection Board shall have the power to:

1. Adopt rules for the conduct of its hearings.

2. Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by a Sheriff or other authorized persons consistent with Rule 1.410(c), Florida Rules of Civil Procedure upon request by the Chairperson.

3. Subpoena records, surveys, plats and other documentary materials.

4. Take testimony under oath.

5. Issue orders having the full force and effect of law to command whatever steps are necessary to bring a violation into compliance.

6. Assess fines pursuant to Sec. 14.3.H (Administrative fines; liens) of this Article.

7. Lien property pursuant to Sec. 14.3.H (Administrative fines; liens) of this Article.

H. Administrative fines; liens.

1. Whenever one of the Groundwater and Natural Resources Protection Board's orders has not been complied with by the time set for compliance, or if the same violation has been repeated by the same violator, the Groundwater and Natural Resources Protection Board may order the violator to pay a fine not to exceed two-hundred fifty dollars ($250.00) for each day thereafter during which each violation continues past the date set for compliance, and up to five hundred dollars ($500) for each day for a repeat violation. In determining the amount of a fine, the Groundwater and Natural Resources Protection Board shall 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. The Groundwater and Natural Resources Protection Board may consider any other factors pertaining to the violator or violation(s) which it deems relevant and shall not be limited to the above recited factors.

2. 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, upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment, 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. 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.

I. **Appeal.** Any aggrieved party may appeal an order of the Groundwater and Natural Resources Protection Board, including Palm Beach County, to the Circuit Court of Palm Beach County, Florida. Such appeal shall not be a hearing de novo, but shall be a petition for Writ of Certiorari and the Court shall be limited to appellate review of the record created before the Groundwater and Natural Resources Protection Board. Any appeal filed pursuant to this Article shall be considered timely if it was filed within thirty (30) days after the hearing at which the order was announced. The County may assess a reasonable charge for the preparation of the record to be paid by the petition in accordance with §119.07, Florida Statutes.

SEC. 14.4 ENVIRONMENTAL CONTROL HEARING BOARD. Any violation of Secs. 7.4, 7.10 or 7.11 may be prosecuted by the Environmental Control Hearing Board (ECHB).

A. Warning Violation. If an alleged violation of Secs. 7.4, 7.10 or 7.11 is determined by the Palm Beach County Public Health Unit (PBCPHU), the County Health Director shall issue a formal notice of violation to the property owner and/or violator. The notice shall specify the corrective actions and a reasonable period of time to correct the violation.

B. Show Cause. Should the violation continue beyond the specified time for correction or if an activity was conducted without a required permit/approval or if the violation created a health threat, the County Health Director shall refer the matter to the Environmental Control Office for enforcement. The Environmental Control Officer shall request the Environmental Control Hearing Board to issue a show cause order to the property owner and/or violator.

C. Notice of Hearing. If the Environmental Control Hearing Board issues a show cause order, the subject order shall be sent by certified mail to the property owner and/or violator and shall include notification of the time, place and nature of the hearing.

D. Procedure at Hearings. The Environmental Control Hearing Board shall proceed to hear the cases scheduled for the day. All testimony shall be under oath and shall be recorded. Each case will be presented by the Environmental Control Officer with testimony and evidence from PBCPHU staff. The property owner or violator may be represented by an attorney and shall be given the Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings.

E. Action by Environmental Control Hearing Board. At the conclusion of the Hearing, the Environmental Control Hearing Board shall issue findings of fact, based on evidence in the record, and conclusions of law and shall issue an order consistent with powers granted in Chapter 77-616, Special Act, Laws of Florida. The order may include a notice of corrective action that must be completed by a specified date and the amount of fine to be paid by a specified date. The order shall have the force of law to command whatever steps are necessary to bring a violation into compliance. The findings shall be by motion approved by a majority of those present and voting, except that a quorum of at least three (3) members shall be present for the action to be official.

F. Notification of Action. Notification of the Environmental Control Hearing Board action including findings of fact and conclusions of law consistent with the record shall be delivered to the property owner and/or violator by certified mail within fifteen (15) working days of board action.

G. Stop work on existing approval. The County may withhold issuance of any subsequent development orders for the development of the subject property or inform the property owner and/or violator that no further work under an existing development order may proceed until the violation has been corrected.

H. Fine. The Environmental Control Hearing Board may order the property owner and/or violator to pay a fine of up to $500/day for each violation.

I. Fine Constitutes Lien. If the fine imposed by the Environmental Control Hearing Board is not paid within the time specified in the Board Order, a certified copy of the order may be recorded in the public records of the office of the Clerk of the Circuit Court for Palm Beach County, Florida and thereafter shall constitute a lien against the land on which the violation exists.

J. Judicial Review. Any person aggrieved by any action of the Environmental Control Hearing Board may seek judicial review as provided by Section 120.68, Florida Statutes. No action shall be taken to collect fines imposed for violation of this act until judgement becomes final.

SEC. 14.5 **ENFORCEMENT BY ENVIRONMENTAL CONTROL HEARING BOARD**. Any violation of Sec. 9.4, the Wetlands Protection Ordinance, of Article 9, Environmental Standards, may be referred by ERM and prosecuted by the Environmental Control Hearing Board. ERM shall have available to it all enforcement remedies made available pursuant to the provisions of Chapter 77-616, Special Acts, Laws of Florida, and any amendments.

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 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. Such consent agreements may be conditioned upon a promise by the alleged violator to:

1. Restore, mitigate, and/or maintain sites; or

2. Remit payment of a monetary settlement not to exceed the maximum amount allowed per violation, as set forth in the applicable act, delegated authority or Code, such monies to be deposited in the Palm Beach County Pollution Recovery Trust Fund; or

3. Remit payment for compensatory damages 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

4. Any other remedies and/or corrective action provided for in the applicable act, delegated authority or Code, deemed necessary and appropriate by the Director of ERM to ensure compliance with such act or Code.

B. Such consent agreements shall not serve as evidence of a violation of any applicable act or Code, and shall expressly state that the alleged violator neither admits nor denies culpability for the alleged violations by entering into such agreement. In addition, prior to entering into any such consent agreement, each alleged violator shall be apprised of the right to have the matter heard in accordance with the provisions of the applicable act or Code, and that execution of the agreement is not required.

C. Such consent agreements shall be valid and enforceable in a court of competent jurisdiction in Palm Beach County and shall abate any enforcement proceedings available to the Director of ERM for so long as the terms and conditions of such agreement are complied with. In the event an alleged violator fails to comply with the terms and conditions set forth in the executed agreement, the Director of ERM may either:

1. Consider the consent agreement void and pursue any remedies available for enforcement of the applicable provisions of the Code; or

2. Initiate appropriate legal proceedings for specific performance of the consent agreement.

SEC. 14.7 CIVIL REMEDIES. The Palm Beach County Board of County Commissioners or any aggrieved or interested person shall have the right to apply to the Circuit Court of Palm Beach County, Florida, to enjoin and restrain any person violating the provisions of this Code, and the Court shall, upon proof of the violation of same, have the duty to forthwith issue such temporary and permanent injunctions as are necessary to prevent the violation of same.

SEC. 14.8 CRIMINAL REMEDIES. Pursuant to Sec. 125.69(1), Fla. Stat., any person violating any of the provisions of this Code or who shall fail to abide by and obey all orders and resolutions promulgated as herein provided, shall, upon conviction, be guilty of a misdemeanor, and shall be subject to all criminal penalties authorized by the State of Florida for such violation, including a fine not to exceed five hundred dollars ($500) or imprisonment for not more than sixty (60) days, or both for each violation, and payment of all costs and expenses involved in prosecuting the offense. Each day that a violation continues shall constitute a separate violation.