

ORDINANCE NO. 2024-_____

AN ORDINANCE AFFECTING ORANGE COUNTY,
FLORIDA BY AMENDING THE ORANGE COUNTY CODE,
CHAPTER 15, ARTICLE X, DIVISIONS 1, 2, 3 AND 4
PERTAINING TO WETLAND CONSERVATION AREAS;
AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the purpose of Chapter 15, Article X, (Wetland Conservation Areas), Orange County Code is the protection of Orange County’s natural resources and, consistent with Section 163.3177(6)(d), Florida Statutes, and the adopted Orange County Comprehensive Plan 2010 - 2030, to develop principles, guidelines, and standards for conservation. The land development regulations implemented in the article provide support for the Comprehensive Plan’s goals, objectives, and policies of protecting quality and quantity of water sources and waters, soils and native vegetative communities, conserving wildlife, wildlife habitat and aquatic habitat, and protecting existing natural spaces; and

WHEREAS, Chapter 15, Orange County Code also adopted designated environmentally sensitive lands for greater protection based on locally determined criteria, and more specifically contained in Article XI (Econlockhatchee River Protection), Article XIII (Wekiva River Protection), and Article XVIII (Environmental Land Stewardship); and

WHEREAS, Orange County is currently undertaking a revision to its comprehensive plan with “Vision 2050 Comprehensive Plan” to provide an updated roadmap for future growth and to ensure continued preservation of natural resources in light of increasing development pressures and as urban expansion continues; and

28 **WHEREAS**, Orange County will continue to identify and analyze existing opportunities
to strengthen protection and conservation of sensitive wetlands and surface waters, the natural
function of wetlands, and direct future land uses that are incompatible with that protection; and

30 **WHEREAS**, the Board of County Commissioners now desires to adopt this Ordinance
that will enhance the regulatory framework for a more streamlined development permit review
32 process that also ensures the preservation and protection of Orange County’s natural resources and
its wildlife, and avoiding the negative consequences of growth.

34 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
ORANGE COUNTY:**

36 *Section 1. Amendments; In General.* Article X, Chapter 15, Divisions 1, 2, 3 and 4
of the Orange County Code is hereby amended as set forth in Sections 2 and 3 below, with
38 additions being shown as underlined and deletions being shown as ~~strike-throughs~~.

Section 2. Amendments to Article X, Chapter 15, Divisions 1, 2, 3 and 4. Article X,
40 Chapter 15, Division 1 (“Generally”), Division 2 (“Development or Activity Permit”), Division 3
 (“Habitat Compensation”) and Division 4 (“Mitigation of Adverse Development”) of the Orange
42 County Code is amended to read as follows:

CHAPTER 15

44 **~~ARTICLE X. WETLAND CONSERVATION AREAS~~**

AND SURFACE WATER PROTECTION

46 **DIVISION 1. GENERALLY**

Sec. 15-361. Short title.

48 This article ~~is shall be~~ known and may be cited as the
“Conservation Wetland and Surface Water Protection Ordinance of
50 Orange County.”

Sec. 15-362. Legislative findings.

52 (a) The board of county commissioners (“board”) finds as
follows:

54 (1) ~~The county contains large wetlands and surface waters that~~
56 ~~provide functional and environmental benefits that support~~
~~public health, safety, and welfare which are significant and~~
58 ~~productive in the maintenance and preservation of viable~~
~~populations of plant and animal species. The functional~~
60 ~~value of wetlands and surface waters is demonstrated by, but~~
~~not limited to, their ability to enhance water quality, provide~~
62 ~~habitat for plant and animal species, recharge groundwater~~
~~and aquifer resources, regulate local climatic conditions,~~
64 ~~provide recreational and educational opportunities for the~~
~~public, and alleviate local and regional flooding.~~

66 (2) The preservation and protection of property rights of the
people of the county require that mechanisms be established
68 ~~that~~ which will concurrently provide for the orderly
regulation, protection, and preservation of environmentally
~~significant and productive wetlands (so as to preserve or~~
70 ~~restore the productivity of such lands), and the wetlands,~~
~~surface waters, and their functions, associated uplands, and~~
72 ~~the equitable consideration of compensation for property~~
~~development rights denied by reason of such preservation.~~

74 (3) ~~The environmental productivity function of wetlands and~~
~~surface waters is sensitive to all agricultural, residential,~~
76 ~~commercial, industrial, or public uses in or near such lands.~~

78 (4) ~~Such environmentally sensitive~~ The relative functionality of
wetlands and surface waters may be evaluated by
80 examination of soils, vegetation, hydrology and the presence
of plant and animal species whose fluctuation is indicative
82 of the ~~relative environmental productivity of such lands~~
~~quality and function of the system.~~

84 (5) ~~Where wetlands serve a significant and productive~~
~~environmental function, the~~ The public health, safety and
welfare require that any alteration or development affecting
86 ~~such lands wetlands or surface waters is discouraged and~~
~~such alteration~~ should be so designed and regulated so as to
88 minimize, limit, or eliminate any impact to wetland or
surface water functions upon the beneficial environmental
90 ~~productivity of such lands, consistent with the development~~
~~rights of property owners.~~

92 (6) ~~Many of the environmentally productive functions of~~
~~wetlands in their natural state can be replaced or duplicated,~~

94 and natural inefficiencies or limitations in such functions can
96 be reduced by providing for mitigation of harm to such
98 functions in the design and development of land
100 improvements. Based on findings from the *Orange County
State of the Wetlands Study* in 2023, wetlands in the county
102 have experienced a decline in acreage, an indication of
104 decline in wetland functionality, and increased
106 fragmentation since the adoption of this article in 1987.
Accordingly, an intent of this ordinance is to limit the effects
of these trends in ways that ensure the county can continue
to experience growth in a sustainable manner. The county
shall periodically reassess wetland and surface water
resources to reevaluate these trends and monitor the potential
effects of growth in the county.

- 108 (7) ~~Under certain conditions, the public health, safety and~~
110 ~~welfare may be enhanced by the elimination of isolated,~~
112 ~~nonviable wetlands and their replacement by interconnected~~
114 ~~wetlands comprising a viable and productive ecosystem. The~~
116 ~~county contains abundant surface waters, many of which are~~
118 ~~designated as impaired by the Florida Department of~~
120 ~~Environmental Protection. The protection and enhancement~~
122 ~~of these waters are dependent upon the protection of~~
associated wetlands, contributing surface waters, and their
function.
- 124 (8) Wetlands and surface waters provide valuable water storage
and flood attenuation. The improper design of development
that impacts wetlands and surface waters may cause or
exacerbate on-site or off-site flooding. Therefore, the loss of
water storage associated with wetland and surface water
impacts shall be accounted for in the design of a project.

124 **Sec. 15-363. Purpose.**

126 (a) The purpose of this article is to protect wetlands and surface
waters, and thereby public health, safety, and welfare, through the
128 regulation of activities that may result in the alteration of wetlands
and surface waters within the county. This article serves to establish
procedures for the classification and management of that accomplish
130 the following:

- 132 (1) The identification of all potential conservation areas as Class
I, Class II, or Class III conservation areas. To discourage
development or alteration of wetlands and surface waters
that provide beneficial services and functions.
- 136 (2) Quantifiably documenting and comparably measuring the
significance and viability of conservation areas under

138 natural, altered and developed conditions. To protect,
139 conserve, enhance, and preserve the ecological value,
140 function, and diversity of wetlands, surface waters,
associated uplands, and other natural resources in Orange
141 County.

142 (3) To provide regulations and standards that avoid, minimize,
and limit the alteration of wetlands and surface waters.

143 ~~(34) Evaluating Effective~~ mitigation and compensation programs
144 designed to enhance or restore, replace or, alter the
145 functioning function of conservation areas wetlands and
146 surface waters in conjunction with development activity.

147 (5) To recognize the rights of individual property owners to use
148 their land in a reasonable manner.

149 (6) To ensure compliance and enforcement of this article is
150 sufficient to discourage unauthorized wetland impacts and
151 ensure the purity of all waters consistent with public health
152 and public enjoyment thereof and propagation and
153 protection of wildlife, consistent with section 15-27.

154 (b) The state adopted a unified statewide methodology for the
155 delineation of the extent of wetlands and surface waters. The
156 standardized rules in chapter 62-340, Fla. Admin. Code (Delineation
157 of the Landward Extent of Wetlands and Surface Waters) provide
158 the procedures for assessing the limits of wetlands and surface
159 waters. Additionally, the standardized rules in chapter 62-345, Fla.
160 Admin. Code, (Uniform Mitigation Assessment Method or UMAM)
161 provide a standardized method to assess the functions provided by
162 wetlands and surface waters, the amount that those functions are
163 reduced by a proposed impact, and the amount of mitigation
164 necessary to offset impacts.

165 (c) Orange County shall assert jurisdiction in, on, over and
166 under wetlands and surface waters within the county and will
167 regulate activities that affect these natural resources pursuant to this
168 article and consistent with the Orange County Charter.

170 **Sec. 15-364. Definitions.**

171 The following ~~words, terms and phrases,~~ words and terms when
172 used in this article, shall have the meanings ascribed to them in this
173 section, except where the context clearly indicates a different
174 meaning:

175 Alteration shall mean any dredging, filling, excavation, clearing,
176 or construction in, on, under, or over wetlands or surface waters,
including direct and secondary impacts.

178 Avoidance shall mean avoiding or preventing any impact to
179 wetlands or surface waters and their functions.

180 Binding determination of exemption shall mean an official
181 county determination of the absence of any conservation area(s) on
182 a parcel(s), issued prior to [effective date of this ordinance to be
183 inserted].

184 ~~Conservation areas shall mean those areas which have the~~
185 ~~requisites in section 15-378 and which are functional pursuant to~~
186 ~~section 15-379. Conservation areas may be determined as Class I, II~~
187 ~~or III. Refer to wetland and surface waters.~~

188 (a) ~~Class I conservation areas area shall mean those a wetland~~
189 ~~areas which meet the following criteria: that has a hydrological~~
190 ~~connection to a natural surface water body; or is a lake littoral zone;~~
191 ~~or are large, isolated, hydrologically uninterrupted wetlands forty~~
192 ~~(40) acres or larger; or provide critical habitat for federal or state~~
193 ~~listed threatened or endangered species.~~

194 (1) ~~Have a hydrological connection to natural surface water~~
195 ~~bodies; or~~

196 (2) ~~Lake littoral zone; or~~

197 (3) ~~Are large isolated uninterrupted wetlands forty (40.0) acres~~
198 ~~or larger; or~~

199 (4) ~~Provide critical habitat for federal and/or state listed~~
200 ~~threatened or endangered species.~~

201 (b) ~~Class II conservation areas area shall mean those wetland~~
202 ~~areas which meet any of the following criteria: isolated wetlands or~~
203 ~~formerly isolated wetlands which, by way of human activities, have~~
204 ~~been directly connected to other surface water drainage and are~~
205 ~~greater than or equal to five (5) acres; or do not otherwise qualify as~~
206 ~~a class I conservation area.~~

207 (1) ~~Consist of isolated wetlands or formerly isolated wetlands~~
208 ~~which by way of man's activities have been directly connected to~~
209 ~~other surface water drainage; and are greater than or equal to five~~
210 ~~(5.0) acres; or~~

211 (2) ~~Do not otherwise qualify as a Class I conservation area.~~

212 (c) ~~Class III conservation areas area shall mean those wetland~~
213 ~~areas which meet the following criteria: wetlands that are isolated~~
214 ~~and less than five (5) acres and do not otherwise qualify as class I or~~
215 ~~class II conservation areas.~~

216 (1) ~~Isolated wetlands less than five (5.0) acres; and~~

217 (2) ~~Do not otherwise qualify as a Class I or Class II conservation~~
218 ~~area.~~

220 Conservation area determination shall mean an official county
221 determination of the presence, location, extent and classification of
222 a conservation area(s) on a parcel(s), issued prior to [effective date
of this ordinance to be inserted].

224 Cumulative impact shall mean significant adverse impacts to
225 water quality or function of wetlands or surface waters that result
226 from the incremental impact of a project activity combined with
227 other past, present, or reasonably anticipated future activities,
228 including both direct and secondary impacts.

229 Development shall mean the carrying out of any material change
230 or alteration to real property or land, including but not limited to
231 dredging, filling, grading, paving, excavating, clearing, ditching, or
232 draining, and includes those activities identified as development in
233 section 380.04, Fla. Stat.

234 Guild shall mean a group of species that utilize a common resource
235 in the environment.

236 ~~Habitat suitability index shall mean a ratio where the value of~~
237 ~~interest (i.e., model output) represents the habitat condition and the~~
238 ~~standard of comparison represents the optimum habitat condition.~~
239 ~~The scale of an HSI is from 0.0 to 1.0 where 0.0 equals no suitability~~
240 ~~and 1.0 equals optimum suitability.~~

241 ~~Habitat unit shall mean the product of the evaluation species~~
242 ~~habitat suitability index and the total area of available habitat. One~~
243 ~~(1) habitat unit generally represents one (1) acre of optimum habitat~~
244 ~~for the particular evaluation species.~~

245 Hydrologic connection shall mean connection to a natural surface
246 water body such as lakes, ponds, rivers, and creeks where a flow of
247 surface water occurs on an average of thirty (30) or more
248 consecutive days per year under normal hydrological conditions. In
249 the absence of reliable hydrological records, a continuum dominated
250 by plant species listed in Appendix A [Ord. No. 89-8] in rules
251 62-340.450(1) and (2), Fla. Admin. Code may be used to establish a
252 hydrological connection. Artificial or manmade ditches or canals
253 constructed through uplands that connect previously isolated
254 wetlands to natural surface water bodies shall not be considered as
255 a hydrological connection. Artificial or manmade ditches or canals
256 constructed in historical natural ~~drainageways~~ wetlands or surface
257 waters shall be considered as a hydrological connection.

258 Invasive species shall mean those plant species identified on the
259 List of Invasive Plant Species by the Florida Invasive Species
260 Council, as amended from time to time.

261 Listed species shall mean those animal species identified as
262 endangered, threatened, or of special concern and are listed in rules

262 68A-27.003 or 68A-27.005, Fla. Admin. Code and those plant
 264 species listed in section 17.12 of Title 50 Code of Federal
Regulations, and the Regulated Plan Index in rule 5B-40.0055, Fla.
Admin. code.

266 Maintenance shall mean regular upkeep of ~~mitigated~~ wetlands,
 268 surface waters, upland buffers, or other natural resource areas
performed in order to ~~assure goals or~~ protect their function or ensure
 270 that success criteria for an approved ~~mitigation/compensation~~
mitigation or compensation plan will be met. This may include a
 272 guaranteed survival rate of planted ~~species and/or~~ species, minimum
 274 percent areal coverage of planted or recruited ~~desirable~~ wetland
desirable species, ~~the removal or~~ maximum allowable percent areal
coverage of undesirable ~~invasion~~ invasive species, and a monitoring
program.

276 Minimization shall mean demonstrating the least alteration to a
 278 wetland or surface water and their functions by managing the
severity of a project's impact on natural resources. Minimization is
 280 achieved by selecting the least-damaging project type, location, and
 282 design to the greatest extent practicable with achieving the purpose
 284 of a project. A practicable project need not provide the highest
economic value or other best use of the property, so long as the
property can be used for a project that is not significantly different
in type or function.

286 Mitigation shall mean ~~remediating wetland impacts by repairing,~~
 288 rehabilitating or restoring affected habitat, creating similar habitat
 290 of equal or greater function, habitat, or unique upland habitat, any
 292 combination thereof or other offsetting process a method of
calculating the compensation for unavoidable direct and secondary
wetland, surface water, or upland buffer impacts in the form of
wetland enhancement, restoration, preservation, or creation;
payment to Orange County Conservation Trust Fund; or purchase of
mitigation credit from an authorized mitigation bank.

294 Practicable shall mean achievable and capable of being put into
practice.

296 Public benefit shall mean a project or activity that provides a
 298 positive impact and benefit to the general public such as mass
transportation, public facilities or improvements, or water, sewer,
electric and other types of public utilities.

300 Reasonable alternative shall mean a project that is practicable and
 302 best suited to protect wetlands, surface waters, and their functions.
It shall not mean a more economically advantageous or feasible
alternative that results in greater impacts to natural resources.

304 Secondary impact shall mean an indirect effect on wetlands and
306 surface waters, or their function that is associated with a discharge
308 of dredged or fill material, but does not result from the actual
310 placement of the dredged or fill material. Secondary impact factors
can include, but are not limited to, light, noise, trash, pedestrian or
vehicular ingress or egress, invasive species encroachment, and
nutrient enrichment.

312 Special protection area(s) (SPA) shall mean an area designated in
314 Orange County for which additional regulation is implemented to
guide development to ensure the protection of natural resources
within the area due to its quality, uniqueness, vulnerability, or other
special function.

316 Sufficient in-county mitigation shall mean either on-site or off-site
318 compensatory mitigation that is located within Orange County,
within the same watershed in which the impact(s) occurs, sufficient
320 to offset a project or activity's impact(s) to a wetland or surface
322 water, and provides one (1) or more of the following: substantial
324 wetland function and connectivity to adjacent wetlands; connection
to a larger preserved public acreage; connection to an established
wildlife corridor; or substantial acreage within a special protection
area.

326 Surface waters shall mean waters as defined by rule 62-340.600,
328 Fla. Admin. Code, that are upon the surface of the earth, whether
contained in bounds created naturally or artificially or diffused.
Water from natural springs shall be classified as surface water when
it exits from the spring onto the earth's surface.

330 ~~Trophic level shall mean an ecological term that describes the~~
332 ~~relative position of a species in the food chain, e.g., herbivore,~~
~~carnivore or decomposer.~~

334 Upland buffer shall mean a natural, undisturbed area(s) of
vegetation adjacent to a wetland or surface water that is utilized to
336 minimize any human-induced disturbance, including any secondary
impact(s) of development. An upland buffer is ideally compromised
of native trees, shrubs, and grasses.

338 Urban infill shall mean development or redevelopment within
340 Orange County's designated Urban Service Area that is consistent
with the applicable zoning district and Orange County's policies to
342 encourage compact urban development and discourage urban
sprawl.

344 ~~Viability shall mean capable of biological growth and~~
~~reproduction, and performance of wetland functions. A wetland has~~
346 ~~viability provided it has not been drained, dredged, filled, or~~
~~dominated by exotic plants.~~

348 Vulnerable habitat shall mean a community type found in Orange
350 County that is experiencing a significant decline in acreage or an
352 increase in fragmentation based on the latest available scientific
354 data. Sources include, but are not limited to, the 2023 Orange
356 County State of the Wetlands Study or other county assessment as
updated from time to time, peer-reviewed studies, or scientific
journal articles. For purposes of this definition, “significant” shall
mean the five (5) wetland community types that are experiencing
the greatest decline in acreage or fragmentation or other negative
trends.

358 Wetland shall mean those areas as defined by chapter 62-340, Fla.
360 Admin. Code, included within waters of the county, that are
362 inundated or saturated by surface water or ground water at a
364 frequency and a duration sufficient to support, and under normal
366 circumstances do support, a prevalence of vegetation typically
368 adapted for life in saturated soils. Soils present in wetlands generally
370 are classified as hydric or alluvial, or possess characteristics that are
372 associated with reducing soil conditions. The prevalent vegetation
374 in wetlands generally consists of facultative or obligate hydrophytic
macrophytes that are typically adapted to areas having soil
conditions described above. These species, due to morphological,
physiological, or reproductive adaptations, have the ability to grow,
reproduce or persist in aquatic environments or anaerobic soil
conditions. Florida wetlands generally include swamps, marshes,
bayheads, bogs, cypress domes and strands, sloughs, wet prairies,
riverine swamps and marshes, hydric seepage slopes, tidal marshes,
mangrove swamps, and other similar areas. Florida wetlands
generally do not include longleaf or slash pine flatwoods with an
understory dominated by saw palmetto.

376 Wetland determination shall mean a determination of the presence
378 or absence of wetlands or surface waters, and if present, a
380 delineation of their location and extent, approved by the county,
382 consistent with chapter 62-340, Fla. Admin. Code, as amended from
384 time to time. Notwithstanding any approved extension, a wetland
386 determination issued by the county consistent with this article, or a
388 conservation area determination issued by the county within the five
(5) years prior to [effective date of this ordinance to be inserted], or
a conservation area determination issued by the county that utilized
any delineation methodology prior to the methodology adopted in
chapter 62-340, Fla. Admin. Code, or a binding determination of
exemption shall constitute a valid wetland determination for the
purposes of this article, unless site conditions have changed due to
natural or human-induced factors.

390 Wetland fragmentation shall mean a breakdown in wetland
392 connectivity across a landscape, a contributing factor leading to loss
of biodiversity and wetland function.

394 Wetland or surface water function shall mean the physical,
chemical, and biological processes or attributes that are vital to the
396 integrity of a wetland system or surface water. These functions
support the abundance, diversity, and habitats of fish and wildlife,
398 including listed species, and provide valuable and beneficial
services to the public. These functions include but are not limited to:
400 providing cover and refuge; breeding, nesting, denning, and nursery
areas; corridors for wildlife movement; food chain support; and
402 water storage, natural flow attenuation, groundwater recharge,
biogeochemical cycling, and water quality improvement.

Sec. 15-365. Repeal of inconsistent ordinances or policies.

404 All ordinances, part of ordinances, or policies or elements of
406 adopted comprehensive plans or parts thereof in conflict herewith
are repealed to the extent of the inconsistency, and shall be
408 otherwise considered to be amended to conform to the purposes and
declared policies of this article.

Sec. 15-366. Remedies.

410 (a) In any case where activity occurs without the permit required
412 by this article, or in violation of any conditions of this article or a
permit, the county may, without limitation:

- 414 (1) Seek injunction from any court of competent jurisdiction
against the continuation of the violation.
- 416 (2) Seek a mandatory injunction to compel the restoration of
lands to the condition in which they existed prior to the
violation.
- 418 (3) Recover damages for the loss of ~~habitat units, wetlands,~~
420 surface waters, and their functions which shall be paid to the
~~conservation trust fund~~ Orange County Conservation Trust
Fund.
- 422 (4) Prosecute the violator ~~before the code enforcement board of~~
424 ~~the county who may assess~~ consistent with chapter 11, Code
Enforcement, to include any applicable penalty, fines and
costs.
- 426 (5) Pursue any other administrative or civil enforcement action
or remedy now or hereafter provided by law.

428 **Sec. 15-367. Financial responsibility.**

430 The person committing a violation under this article shall be
 432 financially responsible for all damages, fines or costs of restoration
 434 provided herein, including all costs of enforcement and
 436 reimbursement of counsel fees. If the violator is also the owner of
 the land upon which the violation occurred, such charges shall
 become a lien upon the affected lands. If such lien is required to be
 collected through foreclosure or other proceedings, the cost of such
 proceedings, including counsel fees, shall be added to and secured
 by the lien.

438 **Sec. 15-368. Enforcement official; orders; restraint; penalties.**

440 (a) An administrative official, to be known as the environmental
 442 protection officer consistent with section 15-32, and employed by
~~the board of county commissioners,~~ shall be vested with the
 444 authority to administer and enforce the provisions of this article and
 446 amendments hereto. The environmental protection officer is hereby
 448 authorized and directed to take any enforcement action authorized
 450 by chapter 15 and amendments thereto, and consistent with chapter
11, Code Enforcement, to ensure compliance with or prevent
 violation of its provisions, ~~and he shall have authority to issue~~
~~administrative stay orders on such behalf. Administrative orders~~
~~shall be served in a manner similar to the service of process or by~~
~~registered mail "return receipt requested." Such order will be~~
~~effective upon service or receipt.~~

452 (b) Consistent with chapter 11 and section 15-36, the
 454 environmental protection officer may issue a notice of violation
when, upon investigation, there is reasonable cause to believe a
 456 violation has occurred. When a violation of this article is irreparable
and irreversible, the environmental protection officer is not required
 458 to provide the alleged violator with a reasonable time to correct the
violation prior to issuing a notice of violation. Such administrative
 460 orders A notice of violation shall specify the ~~provision or provisions~~
 462 provision(s) of this article alleged to be violated and the facts alleged
 464 to constitute a violation thereof, and ~~may order that~~ any necessary
 466 corrective or restorative action needed to correct the violation, and
~~be taken within a reasonable timeframe time to be prescribed in such~~
~~order to perform the action. Any such order shall become final~~
 468 ~~unless the person named therein requests (by written petition) a~~
~~hearing before the board of county commissioners to be heard no~~
~~later than fourteen (14) days after the date such order is served.~~
 Corrective or restorative action ~~thereof~~ may include, but not be
 limited to:

470 (1) Restoration of the impacted area to its undamaged state. This
 restoration may require a larger area than was impacted to

472 provide reasonable assurance that the restoration will
474 compensate for temporary loss of ~~habitat and function~~
wetlands, surface waters, or their functions while the
restoration area is in early succession.

476 (2) Protection of other areas to compensate for the loss of ~~habitat~~
~~and wetlands, surface waters, or their functions~~.

478 (3) Any combination thereof which is acceptable to the county.

480 (c) The environmental protection officer may initiate a civil
action on behalf of the county in order ~~board of county~~
~~commissioners may have the right to apply to the circuit court of the~~
482 ~~county~~ to enjoin and restrain any person violating the provisions of
484 chapter 15, article X, and rules and regulations adopted under this
486 article, and the court may, upon proof of the violation of same, have
the right to forthwith issue such temporary and permanent
injunctions as are necessary to prevent the violation of same.

488 (d) Any person violating any of the provisions of this article or
who shall fail to abide by and obey all orders and resolutions
promulgated as herein provided shall, upon conviction, be subject to
490 the penalty provided in section 1-9. Each day that the violation
continues shall constitute a separate violation.

492 **Secs. 15-369—15-375. Reserved.**

DIVISION 2. DEVELOPMENT OR ACTIVITY PERMIT

494 **Sec. 15-376. Applicability; scope.**

No person shall conduct any activities within or immediately
496 adjacent to any wetland or surface water that would ~~materially~~
~~adversely~~ affect ~~in an adverse way~~ any wetland, surface water, or
498 their functions ~~which has been determined to be a conservation area~~
without first obtaining a permit as provided below in division 4 2 of
500 this article, unless determined to be exempt according to section 15-
380 if those activities adversely alter the function or productivity of,
502 or take place within a conservation area. ~~Such determination shall~~
~~be issued by the environmental protection division, except as~~
504 ~~provided in section 15-382(2).~~ Continuation of and maintenance of
all activities legally conducted ~~and/or~~ permitted prior to November
506 23, 1987 ~~the effective date of this article~~ shall be exempt from this
article.

508 **Sec. 15-377. ~~Potential conservation areas Determination.~~**
 509 **Reserved.**

510 ~~The lands on which the activities described in section 15-376 are~~
 511 ~~regulated shall consist of those lands determined to be potential~~
 512 ~~conservation areas as defined by section 15-378.~~

513 **Sec. 15-378. ~~Same Identification.~~** **Reserved.**

514 ~~Potential conservation areas are wetlands. Wetlands shall mean~~
 515 ~~those areas that are inundated or saturated by surface or groundwater~~
 516 ~~at a frequency and a duration sufficient to support, and under normal~~
 517 ~~circumstances do support, a prevalence of vegetation typically~~
 518 ~~adapted for life in saturated soils. Soils present in wetlands generally~~
 519 ~~are classified as hydric or alluvial, or possess characteristics that are~~
 520 ~~associated with reducing soil conditions. The prevalent vegetation~~
 521 ~~in wetlands generally consists of facultative or obligate hydrophytic~~
 522 ~~macrophytes that are typically adapted to areas having soil~~
 523 ~~conditions described above. These species, due to morphological,~~
 524 ~~physiological, or reproductive adaptations, have the ability to grow,~~
 525 ~~reproduce, or persist in aquatic environments or anaerobic soil~~
 526 ~~conditions. Florida wetlands generally include swamps, marshes,~~
 527 ~~bayheads, bogs, cypress domes and strands, sloughs, wet prairies,~~
 528 ~~riverine swamps and marshes, hydric seepage slopes, tidal marshes,~~
 529 ~~mangrove swamps and other similar areas. Florida wetlands~~
 530 ~~generally do not include longleaf or slash pine flatwoods with an~~
 531 ~~understory dominated by saw palmetto. The landward extent of~~
 532 ~~wetlands and surface waters shall be delineated pursuant to the~~
 533 ~~unified statewide methodology codified as Chapter 62-340, Fla.~~
 534 ~~Admin. Code.~~

535 **Sec. 15-379. ~~Functional characteristics of conservation areas.~~**
 536 **Reserved.**

537 ~~Conservation areas are wetlands which:~~

538 ~~(1) Serve natural biological functions, including food chain~~
 539 ~~production, general habitat and nesting, spawning, rearing and~~
 540 ~~resting sites for aquatic or wetland dependent species, including~~
 541 ~~those designated as endangered, threatened, or of special concern~~
 542 ~~pursuant to F.S. § 581.185 and Rules 68A-27.003, 68A-27.004 and~~
 543 ~~68A-27.005, Fla. Admin. Code.~~

544 ~~(2) Are wetlands lawfully set aside as local, state or federally~~
 545 ~~designated sanctuaries or refuges.~~

546 ~~(3) Are wetlands, the destruction or alteration of which would~~
 547 ~~materially affect in a detrimental way natural drainage~~
 548 ~~characteristics, sedimentation patterns, flushing characteristics, or~~
 549 ~~other related and significant environmental characteristics.~~

550 ~~(4) Are wetlands constituting natural recharge areas. Natural~~
552 ~~recharge areas are wetland areas where surface water and the~~
~~Floridan Aquifer are hydrologically interconnected.~~

554 ~~(5) Are wetlands in which significant and natural water~~
purification occurs.

556 ~~(6) After development of surrounding, contiguous areas, will~~
continue to provide significant and productive habitat.

558 **Sec. 15-380. Exemptions; ~~Determination~~ determination and**
application.

560 (a) This article does not apply to any lands ~~which~~ that meet ~~one~~
(~~1~~) any of the following criteria:

562 (1) Any lands ~~which~~ that have been issued a development permit
(~~that has not expired~~) by the county for conservation areas or
564 wetlands prior to ~~the effective date of this~~ October 1, 1987;
~~or~~

566 (2) Any lands ~~which~~ that have received a development order of
binding vested right determination ~~which~~ that addressed
568 modification or alteration to conservation areas or wetlands
and ~~which~~ that was issued prior to ~~the effective date of this~~
~~chapter~~ October 1, 1987 pursuant to F.S. ch. 380; or

570 (3) Bona fide agriculture activities. Agriculture or silviculture
572 farming operations that are not part of a development
application and demonstrate that they meet the provisions
574 and criteria pursuant to section 163.3162, Fla. Stat.
(Agricultural Lands and Practices Act), or section 823.14(6),
576 Fla. Stat., (Right to Farm Act). Upon approval of request by
a landowner, or their designee, to change the land use from
agricultural to development, this exemption shall expire.

578 (4) Any land that has a validly issued binding determination of
580 exemption, provided that no alterations or other natural or
human-induced changes have occurred that result in the
presence of wetlands or surface waters.

582 ~~(b) Any owner of lands which are comprised of nonwetland~~
584 ~~areas or who believes that his lands are exempt under this section~~
may submit such lands for a binding determination of exemption as
provided in sections 15-381 and 15-382.

586 **Sec. 15-381. ~~Same~~ Application. Reserved.**

588 ~~(a) Any owner of lands who believes that such lands or the~~
proposed activity are exempt from review per section 15-380 may
590 file petition for a binding determination of exemption. Such petition
shall be filed with the environmental protection division, and shall

592 provide information necessary to a determination of exemption.
This information will include at a minimum:

593 (1) ~~Current county aerial photographs.~~

594 (2) ~~Topography per United States Geological Survey 7.5'~~
595 ~~quadrangle maps.~~

596 (3) ~~One hundred year floodprone areas per the maps published~~
597 ~~by the federal emergency management agency.~~

598 (4) ~~Soil types and boundaries per the soil conservation service.~~

599 (5) ~~Information derived from the most current county~~
600 ~~conservation maps as amended.~~

601 (b) ~~The environmental protection division, with the assistance~~
602 ~~of other appropriate departments and divisions, shall act upon such~~
603 ~~petition within fifteen (15) working days.~~

604 **Sec. 15-382. ~~Conservation area classification~~ Wetland**
605 **~~determination.~~**

606 (a) ~~The determination of the presence or absence of~~
607 ~~conservation areas, their classification as Class I, II, or III, and the~~
608 ~~extent and location of the conservation area wetlands and surface~~
609 ~~waters, and the appropriate level of protection or mitigation as~~
610 ~~described in sections 15-396(2) and 15-419(1) or mitigation this~~
611 ~~article will be reviewed consistent with chapters 62-340 and 62-345,~~
612 ~~Fla. Admin. Code, as amended from time to time will follow two (2)~~
613 ~~processes: a staff review (informal) or formal review. The~~
614 ~~environmental protection division is not bound to accept a wetland~~
615 ~~determination except where the delineation of the extent of the~~
616 ~~wetland or surface water is, consistent with section 373.421, Fla.~~
617 ~~Stat., issued pursuant to a formal determination or a permit in which~~
618 ~~the delineation was field-verified by the permitting agency and~~
619 ~~specifically approved in the permit.~~

620 (b) Applicability: ~~A wetland determination shall be required for~~
621 ~~all permit applications. Where practicable, such as a stand-alone~~
622 ~~single-family residential project, a wetland determination will be~~
623 ~~reviewed in conjunction with a permit application.~~

624 (1) Notwithstanding any approved extension, a determination
625 (including conservation area determination) issued within
626 the five (5) years prior to [effective date of this ordinance to
627 be inserted], or a determination issued that utilized any
628 delineation methodology prior to the methodology adopted
629 in chapter 62-340, Fla. Admin. Code, or a binding
630 determination of exemption shall constitute a valid wetland
631 determination for the purposes of this article, unless site
632 conditions have changed due to natural or human-induced

634 factors. A determination of whether a new wetland or surface
water determination is required for a project shall be
636 determined by the environmental protection officer.

638 (c) *Application process:* The environmental protection division
has published an Applicant's Handbook that can be utilized as a
guideline for application submittals.

640 (1) The applicant shall submit a completed application for
wetland determination, along with the applicable fee. The
642 fee assessed for a wetland determination application is
determined by total parcel size.

644 (2) The applicant is responsible for submitting a delineation of
the landward extent of wetlands and surface waters
646 consistent with chapter 62-340, Fla. Admin. Code. This
delineation may be completed by the applicant or an
648 authorized agent provided the individual(s) performing the
delineation has a background in wetland, water, or soil
650 science. The delineation shall be reviewed and may be
modified prior to approval by the environmental protection
division.

652 (3) The applicant shall submit, at a minimum, the following
documentation with an application:

654 a. A completed application form signed by the applicant,
typically the owner(s) of the property;

656 b. If applicable, a notarized Agent Authorization Form if a
658 party other than the property owner(s) is signing the
application and acting on their behalf;

660 c. The application fee appropriate for the subject parcel(s)
in accordance with the most current adopted county fee
directory;

662 d. The parcel identification number(s) assigned by the
664 Orange County Property Appraiser for any parcel(s)
within the project area;

666 e. A map showing the approximate extent of wetlands and
surface waters, if applicable;

668 f. A current aerial photograph at a minimum scale of one
(1) inch equals two-hundred (200) feet (1:2,400), with
the parcel boundary shown;

670 g. A map showing the soil types, as determined by the U.S.
Department of Agriculture, Natural Resources
672 Conservation Service (NRCS), and the parcel boundary;

674 h. A landcover vegetation map, utilizing classifications
 676 from the Florida Land Use, Cover, and Forms
Classification System (FLUCCS) established by the
Florida Department of Transportation (1999), with the
parcel boundary shown; and

678 j. Proposed UMAM scoring sheets Part I and Part II,
 680 pursuant to chapter 62-345, Fla. Admin. Code, for each
wetland and surface water system on-site and a summary
of UMAM scores.

682 (4) For a project located within a parcel that is a minimum of
 684 two (2) acres in size and the area of the proposed activity is
 686 less than one-tenth (1/10) acre for single-family residential
 688 or one-half (1/2) acre for commercial, the applicant may
request a limited wetland determination. This type of
 690 determination is intended to apply to small projects such as,
sheds, pools, lift stations, communication towers, or others
 692 with a minimal footprint. A wetland delineation of the entire
 694 parcel may not be required; however, the scope of the
 696 determination shall be sufficient to depict any wetlands or
surface waters within two-hundred (200) feet of the project
footprint. Upon preliminary approval of the delineation by
the environmental protection division, a survey is required
that includes the legal description of the area within two-
hundred (200) feet of the project footprint, including the
limits of any identified wetlands or surface waters.

698 (d†) *Staff review process:* The applicant shall request a wetland
 700 determination by filing an application with the environmental
 702 protection division. A complete application, including any required
 704 fee, will be reviewed within thirty (30) business days upon
 706 submittal. ~~Within ten (10) working days, the staff will arrange a site~~
 708 ~~visit with the applicant.~~ The environmental protection division staff
 710 shall coordinate a site visit (if necessary) with the applicant or their
 712 agent. Following the site visit(s), staff will issue a preliminary
 714 written wetland determination ~~in writing as to verifying the absence~~
 716 ~~or presence-existence and approximate extent~~ of Class I, II, or III
conservation areas wetlands and surface waters within the
parcel(s). ~~If the applicant agrees in writing within fifteen (15)~~
~~working days with the staff determination, then that determination~~
~~is binding.~~ The applicant shall then submit a special purpose survey
depicting the parcel(s) boundary and any identified wetlands and
surface waters. The applicant shall also submit an electronic
shapefile depicting the wetlands and surface waters. Upon the
applicant's submittal of a complete survey and shapefile depicting
the field-verified limits of wetlands and surface waters on the
parcel(s), staff will issue the final wetland determination, which

718 shall be binding for five (5) years, as long as physical conditions on
720 the property do not change so as to alter the boundaries of wetlands
or surface waters as delineated and determined by the environmental
722 protection division.

722 ~~(2) *Formal review:* If the applicant does not agree with the staff~~
724 ~~determination within fifteen (15) working days of receipt or he~~
~~wishes to propose a mitigation or compensation program which is~~
726 ~~different from the staff determination issued pursuant to subsection~~
~~(1), then he will be required to follow this formal review process:~~

728 ~~a. The environmental protection division shall prepare, publish~~
~~and provide to every applicant the necessary forms and~~
730 ~~procedures for the review of an application or the issuance~~
~~of a binding determination of exemption. Within five (5)~~
732 ~~working days after the filing of any application, the~~
~~environmental protection division shall review such~~
734 ~~application to determine its completeness and shall notify the~~
~~applicant in writing if the application is incomplete or if~~
736 ~~additional data are required. If the environmental protection~~
~~division does not request additional data within that period,~~
~~the application shall be deemed complete.~~

738 ~~b. Where an application for activity within or affecting covered~~
~~lands is also regulated by other ordinances, or is proposed as~~
740 ~~a part of a preliminary subdivision plan, commercial site~~
~~plan or construction plan, including but not limited to the~~
742 ~~locations and design of streets, culverts, drainage or flood~~
~~control structures, excavation, dredging, filling, and~~
744 ~~clearing, the approval of such plans by their respective final~~
~~reviewing bodies based on the criteria of this article~~
746 ~~constitutes compliance with the permitting requirements of~~
~~this article.~~

748 ~~e. A complete application for determination shall be reviewed~~
~~within thirty (30) working days after the filing thereof,~~
750 ~~unless the deadline is waived by both parties.~~

752 ~~d. The applicant shall have the right to appeal the decision of~~
~~the environmental protection officer to the board of county~~
754 ~~commissioners. A notice of appeal to the board of county~~
~~commissioners shall be filed with the environmental~~
756 ~~protection officer within fifteen (15) days after the decision~~
~~is rendered. The environmental protection officer shall then~~
758 ~~request a public hearing before the board of county~~
~~commissioners. Notice of the hearing shall be sent to the~~
760 ~~applicant by regular U.S. mail at least ten (10) days before~~
~~the date of the public hearing. Following the hearing on~~
~~appeal, the board of county commissioners may reverse,~~

762 affirm, or modify the decision of the environmental
764 protection officer. The decision of the board of county
commissioners shall be final.

766 (e) An applicant may appeal any part of a final decision on a
wetland determination consistent with section 15-38.

Sec. 15-383. ~~Effects of development.~~ Reserved.

768 ~~Every application for activity subject to this article shall be
770 reviewed to determine the functional significance, scarcity,
replaceability, vulnerability and productivity of the habitat on the
772 lands to be considered in both the pre and post-developed
condition.~~

774 ~~(1) The functional significance of lands identified as potential
conservation areas shall be determined by the degree of natural
776 biological functions including, but not limited to, food chain
production, general habitat and nesting, spawning, rearing, feeding
778 and resting sites for aquatic or wetland dependent species, including
those designated as endangered, threatened or of special concern,
780 pursuant to F.S. § 581.185, and Rules 68A-27.003, 68A-27.004 and
68A-27.005, Fla. Admin. Code.~~

~~(2) The scarcity of habitat shall be determined as follows:~~
782 a. ~~Cypress wetlands and freshwater marshes common.~~
b. ~~Bayheads and mixed hardwood swamps uncommon.~~
784 c. ~~Wet prairies and hydric hammocks scarce.~~

786 ~~Wetland types such as hydric hammocks or cypress wetlands shall
be determined in accordance with Rule 62.345.400(5), Fla. Admin.
Code.~~

788 ~~(3) The vulnerability of habitat shall be determined by
790 reviewing the likelihood of significant negative change in the habitat
or its functional value because of a change in the use of nearby
792 unregulated lands which will significantly reduce natural system
values and characteristics on the regulated lands.~~

794 ~~(4) The replaceability of habitat shall be determined by
796 reviewing the probability that similar or improved habitat values,
vegetation dominants or inundation regimes can be established to
mitigate or compensate for values or functions occurring in an area
(on or off the project site) proposed for alteration or development.~~

798 **Sec. 15-384. ~~Adjustments to prior determination of
conservation area class designation.~~ Reserved.**

800 ~~Lands which satisfy any of the following criteria may be eligible
for a lower classification:~~

802 ~~(1) Are not functionally significant pursuant to the criteria of~~
~~section 15-379 or 15-383(1); or~~

804 ~~(2) Are not scarce as determined by section 15-383(2); or~~

806 ~~(3) Are determined not to be vulnerable pursuant to section~~
~~15-383(3); or~~

~~(4) Can and will be replaced pursuant to section 15-383(4).~~

808 **Sec. 15-385. ~~Method of measurement. Reserved.~~**

810 ~~The significance and productivity of habitat in conservation areas~~
~~shall be measured in habitat units, using an approved set of~~
812 ~~evaluation species or guilds and the habitat evaluation procedure or~~
~~instream flow incremental methodology of the U.S. Fish and~~
~~Wildlife Service or other methodology acceptable to the county.~~

814 ~~(1) Where the land type and habitat community is widely found~~
~~within the county, a standard group of evaluation species will be~~
816 ~~listed by the environmental protection division and may be accepted~~
~~by the applicant.~~

818 ~~(2) Where the land type and habitat community is scarce, or the~~
~~proposed activity affects a large proportion of the types of wildlife~~
820 ~~cover present on the land, the applicant shall select, with the~~
~~approval of the environmental protection division, a sufficient~~
822 ~~number of species representing different trophic levels and~~
~~components of the fish and wildlife community, so as to obtain a~~
824 ~~reasonable measure of the impact of the activity on wildlife in the~~
~~habitat.~~

826 ~~(3) The measurement of habitat units before the regulated~~
~~activity, and the estimate of habitat units after the activity, shall be~~
828 ~~based on the assumption that adjoining lands not regulated by this~~
~~article have been or will be developed to the extent permitted by law~~
830 ~~applicable to the adjoining lands. If the application clearly~~
~~demonstrates that development of such unregulated lands would~~
832 ~~render the habitat on the conservation areas no longer viable or~~
~~significant or productive, the regulated land shall be deemed to have~~
834 ~~a lower classification.~~

836 **Sec. 15-386. ~~Review—Natural resource impact permits;~~**
~~generally; review standards.~~

838 ~~(a) The environmental protection division shall review every~~
~~application to determine the number of habitat units existing before~~
~~the activity and the number estimated after the proposed activity.~~
840 ~~Each application shall demonstrate the preservation, creation or~~
~~restoration of an equal number of habitat units after the proposed~~
842 ~~activity, except as permitted in divisions 3 and 4 of this article.~~

844 ~~(b) In reviewing each application, the environmental protection~~
 845 ~~division shall consider the number of habitat units existing before~~
 846 ~~and after the proposed activity, the species selected for evaluation,~~
 847 ~~and (where the species selected for evaluation after the activity is~~
 848 ~~proposed to be different from the existing evaluation species) the~~
~~relative values of the evaluation species.~~

850 ~~(c) The relative values of the evaluation species selected shall~~
 851 ~~be computed by the methods set forth in the habitat evaluation~~
 852 ~~procedures of the U.S. Fish and Wildlife Service, taking into~~
 853 ~~account the scarcity, vulnerability, replaceability, and management~~
 854 ~~efforts with respect to the evaluation species and any proposed~~
~~replacement species (technical appendices).~~

856 ~~(1) Where the existing evaluation species have a high value~~
 857 ~~because of their scarcity or vulnerability on a national or regional~~
 858 ~~ecosystem basis, the application shall demonstrate no loss of~~
~~existing habitat units for the evaluation species or the creation of an~~
~~equal number of habitat units for species of equal value.~~

860 ~~(2) Where the existing evaluation species are relatively~~
 861 ~~abundant and have a high to medium value, the application shall~~
 862 ~~demonstrate the minimal loss (less than ten (10) percent) of habitat~~
 863 ~~units for the existing species or the creation of an equal number of~~
 864 ~~habitat units for other species having the same cumulative value and~~
~~importance.~~

866 ~~(3) Where the existing evaluation species are relatively~~
 867 ~~abundant, have a low value, and are relatively tolerant of the~~
 868 ~~proposed activity, the application shall demonstrate the~~
~~minimization of loss of habitat value.~~

870 (a) Any landowner that desires to impact wetlands or surface
 871 waters directly or indirectly for any development activity shall
 872 submit an application for either a Noticed General Permit (NGP) or
 873 a Standard Permit (SP). Upon receipt of the application and fee, the
 874 environmental protection division shall confirm whether the
proposed activity qualifies for the type of permit requested.

876 (b) An application that qualifies for a Standard Permit (SP), as
 877 described in section 15-388, shall demonstrate how the proposed
 878 activity will avoid or minimize impacts to wetlands and surface
 879 waters to the greatest extent practicable. Review standards for
 880 avoidance and minimization are as follows:

882 (1) Wetland and surface water impacts shall be located,
designed, or constructed so that they cause the least
environmental adverse impact possible.

884 (2) An applicant must demonstrate actions to first avoid, then
minimize wetland impacts to the greatest extent practicable,

886 including, but not limited to reducing the size, scope,
888 configuration, or density of the project, and developing
environmentally-preferred alternative project designs.

890 (c) A Noticed General Permit (NGP) may be issued for certain
activities that cause minimal individual and cumulative impacts to
892 wetlands and surface waters. An application that qualifies for a NGP
will not be required to demonstrate avoidance and minimization of
the impact(s).

894 (d) *Single family homesites.* Limited wetland and surface water
impacts for single family homesites shall be allowed where there is
896 insufficient contiguous upland property to make reasonable use of
the land otherwise. Reasonable use of the land shall not mean the
898 highest and best use of the property. The footprint of the home,
accessory uses, and on-site sewage disposal system shall be sited to
900 avoid direct and secondary impacts to wetlands and surface waters
to the greatest extent practicable. Generally, a reasonable site plan
902 for a single-family home includes the footprint of the home,
driveway, septic system, and a yard and/or pool that is designed to
904 minimize the total footprint of the home.

906 (e) An approved wetland determination, as described in section
15-382, is required prior to submitting an application for a Noticed
General Permit or a Standard Permit in the following cases:

908 (1) When required to determine the net developable acreage for
density floor area ratio (FAR), or other development
910 planning calculations.

912 (2) When otherwise required by county code for site design
considerations, including but not limited to, setbacks,
914 calculating minimum developable uplands, evaluating
changes in land use, or similar requirements.

916 (f) Applications for a lot split submitted pursuant to chapter 38
shall not be considered for approval if the reconfiguration of any
918 proposed lot line or boundary would promote greater impacts to
wetland or surface waters than would result from development of
920 the property in the existing lot configuration, consistent with the
applicable zoning requirements.

922 **Sec. 15-387. Reserved.—Noticed General Permit; review**
standards.

924 (a) *Application.* An applicant seeking a Noticed General Permit
(NGP) shall submit a complete application, along with the
926 applicable fee, to the environmental protection division. At a
minimum, the application shall include all of the following:

- 928 (1) A completed NGP application form signed by the property
owner(s) or designated agent.
- 930 (2) If applicable, a notarized Agent Authorization Form, if a
party other than the property owner(s) is signing the
application and acting on their behalf.
- 932 (3) The application fee appropriate for the proposed activity in
accordance with the most current adopted county fee
934 directory.
- 936 (4) A valid wetland determination issued pursuant to section
15-382, unless the wetland determination application is
being reviewed concurrently with the NGP application.
- 938 (5) A current aerial photograph of the project site at a minimum
scale of one (1) inch equals two-hundred (200) feet
940 (1:2,400), with the parcel boundary shown.
- 942 (6) A detailed site plan including, but not limited to, cross
sections, elevation plans, and sediment and erosion control
944 plans for all proposed development activity, including but
not limited to lots, roads, ponds, approved wetland and
946 surface water limits and proposed impacts, proposed upland
buffer impacts, and any proposed on-site mitigation.
- 948 (7) A wetland or surface water map of the project site that
depicts any wetlands extending off-site or wetlands within
one-hundred (100) feet of the proposed development.
- 950 (8) For a commercial or residential development, excluding
single-family homesites, a detailed flow map of the project
952 site and any adjacent off-site wetlands and surface waters
associated with the existing conditions and post-
954 development conditions must be provided. The flow map
must indicate runoff flow patterns and any discrepancies
956 between the current and post-development conditions that
may have a negative effect on wetland or surface water
958 hydrology.
- (9) Project impact summary table.
- 960 (10) Project mitigation plan and summary table.
- 962 (b) The following development-related activities may qualify
for a Noticed General Permit provided the proposed activity meets
all requirements identified for each activity type:
- 964 (1) Fill for a single-family homesite where a wetland impact(s)
is less than one-fourth (1/4) acre and there is less than one-
966 fourth (1/4) acre of contiguous uplands to make any
reasonable use of the land otherwise:

968 a. The proposed activity must be for a sole dwelling. A
970 single-family residence with an accessory dwelling unit
for which wetland impacts are proposed does not qualify
for a Noticed General Permit.

972 b. The proposed activity must utilize existing uplands on
the property where practicable.

974 c. Successive filling of the parcel resulting in an
976 exceedance of the one-fourth (1/4) acre threshold will
not qualify for a Noticed General Permit (i.e., no phasing
of project).

978 (2) Fill for isolated artificial surface waters or ponds that are
980 entirely created from uplands and do not connect to any other
wetlands or surface waters:

982 a. The proposed impact(s) must be less than one-half (1/2)
acre.

984 b. The proposed impact(s) must not result in the
impoundment of water above the surrounding natural
elevation.

986 c. The proposed activity must not result in impacts to the
aquifer or karst resources.

988 d. The proposed impact area must not have been previously
created for mitigation.

990 e. The proposed impact area must not be part of a
stormwater treatment and management system.

992 (3) Fill for upland cut drainage ditches:

994 a. The proposed impact(s) must not result in the
impoundment of water above the surrounding natural
elevation.

996 b. The proposed impact(s) must not impede flow in any
998 way that negatively affects drainage patterns or
surrounding properties.

1000 c. Appropriately sized culverts shall be utilized when
applicable to maintain flow.

1002 d. All side slopes and disturbed surfaces shall be stabilized
using vegetative or non-vegetative cover best
1004 management practices (BMPs) to prevent erosion and
sediment loss in areas exposed through the construction
1006 process. Stabilization shall occur within seven (7)
calendar days after construction activities have
1008 temporarily or permanently ceased for any portion of the
project site.

- 1010 (4) Other commercial or residential development where the
1012 wetland impact(s) is less than one-fourth (1/4) acre:
- 1014 a. The proposed activity must utilize existing uplands on
1016 the property where practicable.
 - 1018 b. Successive filling of the parcel resulting in an
1020 exceedance of the one-fourth (1/4) acre threshold will
1022 not qualify for a Noticed General Permit (i.e., no phasing
1024 of project).
- 1026 (5) Commercial and residential development proposing only
1028 secondary impacts.
- 1030 (6) Fence installation:
- 1032 a. The fencing shall not impede the flow of water or the
1034 movement of any wildlife and may not be constructed of
1036 wooden panels, vinyl walls, or chain link material.
 - 1038 b. The only allowable wetland impacts are those resulting
1040 from the installation of the fence posts.
 - 1042 c. Best management practices must be used during
1044 construction to limit rutting and erosion.
- 1046 (7) A Noticed General Permit will not be issued for the activities
1048 in subsections (1) through (6) above if any of the following
are also associated with the application:
- 1050 a. An Outstanding Florida Waterway (OFW) is located
1052 within one hundred fifty (150) feet of the project site
1054 construction footprint, as measured from the Normal
1056 High Water Elevation (NHWE) or Safe Upland Line (as
1058 applicable), or limits of associated wetlands, whichever
1060 is more landward.
 - 1062 b. A project proposing an impact(s) below the NHWE as
1064 established by the county for a lake or the safe upland
1066 line of a stream, river, creek or spring run.
 - 1068 c. Any listed wetland-dependent species is nesting within
1070 the project site.
 - 1072 d. The functional assessment score (utilizing the method
1074 established in chapter 62-345, Fla. Admin. Code), of the
1076 proposed wetland or surface water impact(s) is greater
1078 than or equal to 0.8. For a project(s) with impacts to
1080 multiple wetlands, not to exceed a total of one-fourth
1082 (1/4) acre (or one-half (1/2) acre for isolated artificial
1084 surface waters), the functional assessment score shall be
1086 calculated by a weighted average of all impacts. The
1088 weightage shall be calculated by determining the acreage

1050 of each individual impact as a percentage of the total
1051 proposed impact acreage.

1052 e. Proposed impact(s) to a conservation easement, further
1053 described in section 15-390.

1054 f. Proposed impact(s) that results in a severance of a
1055 wildlife corridor(s).

1056 g. The project site has already been issued a Standard
1057 Permit for the same or similar purpose or activity.

1058 h. A proposed impact(s) is not for a single, complete
1059 project.

1060 (c) The following beneficial activities may qualify for a Noticed
1061 General Permit provided the proposed activity meets all
1062 requirements identified with each activity type:

(1) Maintenance activities.

1064 a. Repair, rehabilitation, or replacement of a previously
1065 authorized structure.

1066 b. Temporary fill needed to repair intake or outfall
1067 structures.

1068 c. Restoration of a previously authorized project to pre-
1069 existing conditions within twelve (12) months of a
1070 tropical storm, hurricane, or flood event.

(2) Invasive plant removal:

1072 a. The proposed activity must utilize proper erosion control
1073 methods.

1074 b. All removed vegetation must be properly disposed of in
1075 a landfill.

1076 c. The proposed activity includes temporary impacts only.

(3) Wetland enhancement or restoration:

1078 a. The proposed activity shall not be considered as
1079 mitigation for any other activity or project.

1080 b. Qualification for a Noticed General Permit will be
1081 determined at the discretion of the environmental
1082 protection division based on the degree to which the
1083 proposed activity enhances or restores wetlands, surface
1084 waters, and their functions.

(4) Water quality enhancement:

1086 a. The proposed activity shall not adversely affect the
1087 hydroperiod of any adjacent wetland(s).

- 1088 b. The proposed activity shall not adversely affect fish and
 wildlife populations.
- 1090 c. Qualification for a Noticed General Permit will be
1092 determined at the discretion of the environmental
 protection division based on the degree to which the
 proposed activity enhances or restores water quality.
- 1094 (5) Public flood protection projects with the primary goal of
1096 improving stormwater management level of service, as set
 forth in Comprehensive Plan Policy SM1.5.8.
- 1098 a. The proposed activity must utilize proper erosion control
 methods.
- 1100 b. The proposed activity shall not adversely affect the
 hydroperiod of any adjacent wetland(s).
- 1102 (6) Utilities with temporary impacts:
- 1104 a. Proposed activities may include the maintenance, repair,
 removal, or replacement of existing utilities.
- 1106 b. The proposed activity must utilize proper erosion control
1108 methods.
- 1110 c. Any backfilling resulting from the proposed activity
 must be conducted in such a manner as to restore
 preconstruction elevations and contours and the activity
1112 area must be replanted with appropriate native
 vegetation within thirty (30) days of completion of the
 project.
- 1114 (7) Intake or outfall structures:
- 1116 a. Proposed activities may include the installation, repair,
 or equivalent replacement of intake or outfall structures.
- 1118 b. Outfall structures must be designed to limit erosion and
 scour from high flow events.
- c. The proposed activity must utilize proper erosion control
 methods.

Sec. 15-388. ~~Review~~Standard Permit; review standards.

- 1120 (a) *Application.* An applicant seeking a Standard Permit (SP)
1122 shall submit a complete application, along with the applicable fee,
 to the environmental protection division. At a minimum, the
 application shall include all of the following:
- 1124 (1) A completed Standard Permit application form signed by the
 property owner(s) or designated agent.

- 1126 (2) If applicable, a notarized Agent Authorization Form, if a
1128 party other than the property owner(s) is signing the
 application and acting on their behalf.
- 1130 (3) The application fee appropriate for the proposed activity in
 accordance with the most current adopted county fee
 directory.
- 1132 (4) A valid wetland determination issued pursuant to section
1134 15-382, unless the wetland determination application is
 being reviewed concurrently with the SP application.
- 1136 (5) A current aerial photograph of the project site at a minimum
 scale of one (1) inch equals two-hundred (200) feet
 (1:2,400), with the parcel boundary shown.
- 1138 (6) A detailed site plan including, but not limited to, cross
1140 sections, elevation plans, and sediment and erosion control
1142 plans for all proposed development activity, including but
 not limited to lots, roads, ponds, approved wetland and
 surface water limits and proposed impacts, proposed upland
 buffer impacts, and any proposed on-site mitigation.
- 1144 (7) A wetland or surface water map of the project site that
1146 depicts any wetlands extending off-site or wetlands within
 one-hundred (100) feet of the proposed development.
- 1148 (8) For a commercial or residential development, excluding
1150 single-family homesites, a detailed flow map of the project
1152 site and any adjacent off-site wetlands and surface waters
1154 associated with the existing conditions and post-
 development conditions must be provided. The flow map
 must indicate runoff flow patterns and any discrepancies
 between the current and post-development conditions that
 may have a negative effect on wetland or surface water
 hydrology.
- 1156 (9) Project impact summary table.
- (10) Project mitigation plan and summary table.
- 1158 (11) If a public hearing is required on the application, a notarized
1160 Relationship Disclosure Form and a Specific Project
 Expenditure Report.
- 1162 (b) A Standard Permit (SP) may be issued for development
 activities that do not qualify for a Noticed General Permit (NGP).
 Standard Permit review standards shall be based on the level of
1164 review, determined by the average weighted UMAM score and
 acreage of proposed direct impacts. The levels of review are
1166 depicted in the following Standard Permitting Matrix table, where
 diagonal lines indicate a Level 1 review, stippling indicates a Level

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2 review, and cross hatching indicates a Level 3 review, unless otherwise determined by the environmental protection division.

STANDARD PERMITTING MATRIX

		Wetland Impacts [acres]			
		≤ 2.0	> 2.0 - 10.0	> 10.0 - 25.0	> 25.0
Functional Score [UMAM]	10	[Dotted]	[Dotted]	[Cross-hatch]	[Cross-hatch]
	9	[Dotted]	[Dotted]	[Cross-hatch]	[Cross-hatch]
	8	[Dotted]	[Dotted]	[Cross-hatch]	[Cross-hatch]
	7	[Diagonal]	[Dotted]	[Cross-hatch]	[Cross-hatch]
	6	[Diagonal]	[Dotted]	[Cross-hatch]	[Cross-hatch]
	5	[Diagonal]	[Dotted]	[Dotted]	[Cross-hatch]
	4	[Diagonal]	[Dotted]	[Dotted]	[Cross-hatch]
	3	[Diagonal]	[Diagonal]	[Dotted]	[Cross-hatch]
	2	[Diagonal]	[Diagonal]	[Dotted]	[Cross-hatch]
	1	[Diagonal]	[Diagonal]	[Dotted]	[Cross-hatch]

[Diagonal]	Standard Permit Level 1
[Dotted]	Standard Permit Level 2
[Cross-hatch]	Standard Permit Level 3

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(c) The UMAM score utilized to identify the level of review in the matrix shall be determined by a weighted average of all proposed individual wetland or surface water impacts. The weighted average shall be calculated by determining the acreage of each individual proposed direct impact as a percentage of the total proposed impact acreage. The total acreage of all proposed direct wetland or surface water impacts shall be utilized to determine the level of review in the matrix.

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(d) A Standard Permit application will be reviewed by the environmental protection division according to the following guidelines:

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- (1) Level 1: Activities resulting in unavoidable impacts to wetlands or surface waters where the direct impact(s) is less than or equal to two (2) acres in size and with a weighted average UMAM score between 0.1 and 0.79; or where the direct impact(s) is between 2.01 and 10 acres with a weighted average UMAM score less than 0.4.

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- 1188 a. Level 1 applications must demonstrate avoidance and
1190 minimization of wetland and surface water impacts to the
greatest extent practicable.
- 1192 b. Level 1 applications will undergo a minimum of two (2)
levels of staff review and may be issued or denied by the
environmental protection division assistant manager.
- 1194 (2) Level 2: Activities resulting in unavoidable impacts to
1196 wetlands or surface waters where the direct impact(s) is less
1198 than or equal to two (2) acres, with a weighted average
1200 UMAM score greater than or equal to 0.8; or where the direct
1202 impact(s) is between 2.01 and 10 acres with a weighted
average UMAM score between 0.4 and 1; or where the direct
impact(s) to wetlands where the wetland impact is between
10.01 and 25 acres with a weighted average UMAM score
less than 0.6.
- 1204 a. Level 2 applications must demonstrate avoidance and
minimization of wetland impacts to the greatest extent
practicable.
- 1206 b. Level 2 applications require a limited cumulative impact
analysis, further described in section 15-389.
- 1208 c. Level 2 applications require a secondary impact analysis,
further described in section 15-389.
- 1210 d. Level 2 applications will undergo a minimum of three
1212 (3) levels of staff review and will be issued or denied by
the environmental protection division manager.
- 1214 (3) Level 3: Activities resulting in unavoidable impacts to
1216 wetlands or surface waters where the direct impact(s) is
1218 between 10.01 and 25 acres with a weighted UMAM score
greater than or equal to 0.6; or where the direct impact(s) is
greater than twenty (25) acres, regardless of the weighted
average UMAM score.
- 1220 a. Level 3 applications must demonstrate avoidance and
minimization of wetland impacts to the greatest extent
practicable.
- 1222 b. Level 3 applications require a pre-application meeting
with the environmental protection division.
- 1224 b. Level 3 applications require a detailed cumulative
impact analysis, further described in section 15-389.
- 1226 c. Level 3 applications require a secondary impact analysis,
further described in section 15-389.

- 1228 d. Level 3 applications require an alternatives analysis,
consistent with section 15-389.
- 1230 e. Level 3 applications will undergo a minimum of four (4)
levels of staff review and will be subject to a public
 1232 hearing before the board of county commissioners.
- 1234 (4) A system of incentive and deterrent modifiers shall be
utilized to promote sustainable development activities and
 1236 disincentivize development activities that more negatively
affect natural resources. The Standard Permitting Score
 1238 Matrix below indicates the raw score that shall be assigned
to each permitting review level.

STANDARD PERMITTING RAW SCORE MATRIX

		Wetland Impacts [acres]			
		≤ 2.0	> 2.0 - 10.0	> 10.0 - 25.0	> 25.0
Functional Score [UMAM]	1	2.3	2.9	3.7	3.9
	0.9	2.2	2.8	3.6	3.8
	0.8	2.1	2.7	3.5	3.7
	0.7	1.9	2.6	3.4	3.6
	0.6	1.7	2.5	3.3	3.5
	0.5	1.5	2.4	2.9	3.4
	0.4	1.4	2.3	2.8	3.3
	0.3	1.3	1.6	2.7	3.2
	0.2	1.2	1.5	2.6	3.1
	0.1	1.1	1.4	2.5	3.1

	Standard Permit Level 1
	Standard Permit Level 2
	Standard Permit Level 3

- 1240 a. Incentive and deterrent modifiers and their assigned
 1242 weights are depicted in the Modifier table below. Upon
 1244 addition or subtraction to the applicant’s assigned raw
score for any modifiers indicated, the permit application
review level may change. Additional details regarding
modifier qualifying criteria are included in this section.

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<u>Modifier</u>	<u>Type (Incentive or Deterrent)</u>	<u>Raw Score Adjustment Factor</u>
<u>Invasive species management plan</u>	<u>Incentive</u>	<u>-0.3</u>
<u>Reduces fragmentation (bridge or infill)</u>	<u>Incentive</u>	<u>-0.2 to -0.4</u>
<u>Additional 25-75 feet upland buffer beyond requirements</u>	<u>Incentive</u>	<u>-0.3</u>
<u>Additional 75-150 feet upland buffer beyond requirements</u>	<u>Incentive</u>	<u>-0.5</u>
<u>Additional 150 feet or more upland buffer beyond requirements</u>	<u>Incentive</u>	<u>-0.7</u>
<u>Sufficiently-sized in-county mitigation</u>	<u>Incentive</u>	<u>-0.5</u>
<u>Project with a public benefit</u>	<u>Incentive</u>	<u>-0.5</u>
<u>Wetland enhancement (beyond mitigation requirements)</u>	<u>Incentive</u>	<u>-0.2</u>
<u>Stormwater treatment system – high nutrient reduction</u>	<u>Incentive</u>	<u>-0.5</u>
<u>OFW within 150 feet of project site construction footprint</u>	<u>Deterrent</u>	<u>+0.5</u>
<u>Impact within a special protection area</u>	<u>Deterrent</u>	<u>+0.5</u>
<u>Impact within a rural settlement</u>	<u>Deterrent</u>	<u>+0.3</u>
<u>Impact to a conservation easement (less than 3 acres)</u>	<u>Deterrent</u>	<u>+0.2</u>
<u>Impact to a conservation easement (greater than 3 acres)</u>	<u>Deterrent</u>	<u>+0.4</u>
<u>Wetland-dependent listed species nesting on-site</u>	<u>Deterrent</u>	<u>+0.4</u>
<u>Wildlife corridor impact</u>	<u>Deterrent</u>	<u>+0.4</u>
<u>Impact to vulnerable habitat or important wetlands and surface waters (identified in adopted comprehensive plan)</u>	<u>Deterrent</u>	<u>+0.3</u>

- 1248 (5) If any Standard Permit application is associated with one (1)
1250 or more of the following deterrent modifiers, the Standard
1252 Permit review level may increase one (1) or two (2) levels,
 regardless of wetland impact size or wetland functional
 score, at the discretion of the environmental protection
 division:
- 1254 a. OFW located within one hundred fifty (150) feet of the
 project site construction footprint, as measured from the
1256 NHWE or Safe Upland Line (as applicable), or limits of
 associated wetlands, whichever is more landward.
- 1258 b. Project site is located within a special protection area.

- 1260 c. Impacts to wetlands that are located within a designated rural settlement.
- 1262 d. Proposed impacts to a conservation easement.
- 1264 e. Wetland-dependent listed species nesting on the project site.
- 1266 f. Proposed impacts that would result in a severance of wildlife corridors.
- 1268 g. Proposed impacts to a vulnerable habitat type.
- 1270 h. Proposed impacts to significant wetlands and surface waters, as mapped in the county's comprehensive plan.
- 1272 (6) Applications that qualify for a Standard Permit Level 2 or Level 3 and are associated with certain incentivized modifiers may qualify for decreased review standards, up to one (1) level, at the discretion of the environmental protection division. Applications that qualify for a Level 3 Standard Permit may qualify for Level 2 review standards, and applications that qualify for a Level 2 Standard Permit may qualify for Level 1 review standards, if one (1) or more of the following incentivized modifiers are associated with the application:
- 1278 a. Invasive species management plan, other than what is required as a condition for preservation or enhancement as mitigation for impacts.
- 1280 b. Projects that minimize wetland fragmentation (bridge or infill).
- 1282 c. Projects that provide additional buffers beyond the minimum requirements.
- 1284 d. Projects with sufficient in-county wetland mitigation to compensate for unavoidable wetland impacts.
- 1286 e. Projects with a public benefit, as determined by the environmental protection division.
- 1288 f. Projects that provide wetland enhancement beyond mitigation requirements and invasive species removal.
- 1290 e. Projects that include stormwater treatment systems that provide a level of treatment greater than required standards, and at a minimum are sufficient to accomplish the greater of the following nutrient load reduction criteria:
- 1292 i. A ninety (90) percent reduction of the average annual loading of total phosphorus (TP) and eighty (80)
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- 1296
- 1298

1300 percent reduction in the average annual loading of
total nitrogen (TN) from the proposed project; or

1302 ii. A reduction such that the post development condition
average annual loading of nutrients does not exceed
the predevelopment condition nutrient loading.

1304 (e) The environmental protection division may modify the level
of review of any application for good cause. The environmental
1306 protection division will notify the applicant of the determined
application review level within thirty (30) days of receipt of a
1308 complete application and fee. The applicant may request that the
staff determination of a modified level be reviewed by the
1310 environmental protection officer. An applicant may appeal the final
decision of the environmental protection officer consistent with
1312 section 15-38.

Sec. 15-389. ~~Reserved.~~ Required Analyses.

1314 (a) Cumulative impact analysis (CIA) involves an evaluation of
the combined, incremental effects of human activity, referred to as
1316 cumulative impacts, that pose a serious threat to the environment.
An applicant must demonstrate that the project will not have a
1318 significant cumulative impact on the natural resources of the county
based on factors such as connectivity of waters, hydrology, habitat
1320 range of affected species, and water quality. The extent of a CIA
should be commensurate with the potential for significant impacts.
1322 Each CIA will vary by activity type, location, resource size, and
current conditions. The CIA shall include, but is not limited to the
1324 following:

1326 (1) Defining the study area of the CIA, to include an analysis of
the project's direct and secondary impacts.

1328 (2) An evaluation of the factors listed in 15-389(a) and how the
mitigation plan fully offsets the adverse impacts within the
county.

1330 (3) Past, present and reasonably foreseeable future actions:

1332 a. Past actions are those actions that already occurred and
may warrant consideration in determining the
environmental impacts of an action;

1334 b. Present actions are any other activities that are
simultaneously occurring along with the proposed
1336 project.

1338 c. Reasonably foreseeable future actions are possible
activities, based on the likelihood of a continuation of
current trends, that may be implemented and have an
1340 effect on the natural resources of the county.

1342 (4) Significance determination that describes the current health
 1344 of the resource and determines whether or not the proposed
impacts pose a significant cumulative impact based upon
past, current and reasonably foreseeable future actions.

1346 (b) Secondary impact analysis (SIA) shall evaluate the effect of
 1348 the proposed impacts within one hundred (100) feet or greater
depending on the activity and wetland community type, of the
 1350 adjacent or on-site remaining wetland or surface waters. The SIA
 1352 shall consider the secondary effects the project poses to wetlands or
 1354 surface waters in incremental stages of twenty-five (25) feet. The
 1356 health of the remaining wetland after the proposed activity shall be
evaluated in the SIA. The SIA shall consider whether the reasonably
foreseeable impacts would be temporary or permanent, the severity
of the impact (minor or substantial) and how the impact result
(negative, neutral, or positive) will affect the resource. An SIA shall
include, but is not limited to, the following:

- 1358 (1) Proposed wetland or surface water impacts.
- 1360 (2) Proposed buffer size.
- 1362 (3) Type of activity.
- 1364 (4) Wetland community type (herbaceous or forested).
- 1366 (5) Proposed stabilization method of edges of all fill areas (stem
 1368 walls, side slopes, etc.)
- 1370 (6) Identification of all reasonable changes to the remaining
 1372 wetlands or surface waters that may result from the proposed
 1374 activity. The applicant shall determine whether the
 1376 reasonable changes will result in no effect, negligible effect,
minor effect, or major effect to the remaining wetlands or
surface waters.

1370 (c) Alternative analysis (AA) shall demonstrate that there are no
 1372 practicable alternatives for the proposed activity in uplands and the
 1374 proposed activity that impacts wetlands or surface waters has
 1376 avoided and minimized impacts to the greatest extent practicable.
The extent of the AA will vary based upon the size of the impacts.
At a minimum, the AA shall include the no action alternative and
two (2) additional alternatives (including the proposed project). The
following four (4) components shall be included in every AA:

- 1378 (1) Availability – an area not presently owned by the applicant
that could reasonably be obtained and utilized for the
proposed project.
- 1380 (2) Costs – considers the overall cost of the project alternatives
 1382 and whether these costs are unreasonably expensive in the
opinion of the applicant. However, the cost of project

1384 alternatives shall only be a minor factor considered by the
environmental protection division in the determination of
whether an alternative is practicable.

1386 (3) Existing technology – considers various technologies to
achieve the project purpose by avoiding and minimizing
1388 wetland impacts. This includes utilizing best management
practices and the most efficient means to avoid and minimize
1390 the wetland impacts that are currently proposed.

(4) Logistics – considers whether practicable alternatives
1392 associated with the project’s logistics are viable. Logistics
shall be based upon industry standards and requirements for
1394 the activity being proposed.

(d) The AA shall include a brief description of each alternative
1396 and the results shall be provided in a tabular format.

(e) Final determination of the validity and relevance of findings
1398 in the required analyses discussed herein shall be determined by the
environmental protection division.

1400 **Sec. 15-390. ~~Reserved.~~ Conservation easement amendments.**

(a) The environmental protection division shall evaluate any
1402 proposed conservation easement amendment to determine the extent
to which the proposed amendment maintains the protections of
1404 environmentally sensitive areas. With the exception of projects of
public benefit, an amendment to a conservation easement may not
1406 be considered if the easement area provides any of the following
criteria:

(1) Maintains, preserves, or enhances connectivity to other
1408 existing conservation easements, wetlands, or surface waters
1410 five (5) acres or greater or is connected to natural water
bodies on adjacent parcels.

(2) Supports unique or vulnerable habitats, environmental
1412 features, or wetland functions.

(3) Provides habitat to listed species.
1414

(4) Provides capacity to reduce flooding in surrounding areas
1416 during hurricanes or storm events.

(5) Promotes passive recreation that provides significant value
1418 to a neighborhood or community.

(b) Any application proposing to amend a conservation
1420 easement dedicated to Orange County for the purposes of proposed
impacts shall include the following items:

- 1422 (1) A functional assessment of the portion of the conservation
1424 easement requested for release at the time the easement was
dedicated.
- (2) A copy of any relevant local, state, or federal permits.
- 1426 (3) An application for a Noticed General Permit or Standard
Permit, as applicable, consistent with section 15-386.
- 1428 (4) A mitigation plan to offset any proposed impacts to the
1430 conservation easement. Replacement mitigation is required
1432 if the conservation easement was previously utilized for
mitigation purposes. Replacement mitigation will be
1434 calculated based on the reasonable and expected increase in
functionality of the conservation easement area as permitted
at the time of dedication.

Sec. 15-391. ~~Reserved.~~ Upland buffers.

1436 (a) A minimum one hundred (100) foot natural and undisturbed
1438 upland buffer is required for all development, with limited
exceptions as noted below. In all cases, the greatest buffer width
1440 practicable is required. In the following circumstances, a minimum
twenty-five (25) foot minimum and fifty (50) foot average upland
buffer may be acceptable:

- 1442 (1) Development proposed within parcels five (5) acres or less
in size; or
- 1444 (2) Parcels that are comprised of greater than or equal to ninety
(90) percent wetlands or surface waters; or.
- 1446 (3) Urban infill projects.

1448 (b) If any portion of the required upland buffer cannot be
provided, mitigation for the lack of buffer and any associated
1450 secondary impacts to wetlands or surface waters shall be required
pursuant to the following:

- 1452 (1) Projects that do not require an SIA as referenced in 15-389
will be assessed secondary impacts and upland buffer
1454 impacts based on the area that will total the required buffer
width. Mitigation is required for any portion of the required
1456 upland buffer not provided and for the secondary impacts to
adjacent wetlands or surface waters.
- 1458 (2) Projects that require an SIA as referenced in 15-389 shall
utilize the findings of the approved SIA to determine the
1460 required mitigation for secondary impacts and any portion of
buffer not provided.

1462 (c) Increased upland buffer requirements may be determined by
1463 the environmental protection division for applications associated
1464 with the following modifiers:

1464 (1) An OFW is located within one hundred fifty (150) feet of the
1465 project site construction footprint, as measured from the
1466 NHWE or Safe Upland Line (as applicable), or limits of
1467 associated wetlands, whichever is more landward.

1468 (2) Any listed wetland-dependent species nesting within the
1469 project.

1470 (3) Proposed impacts to a conservation easement.

1471 (4) Proposed impacts that result in a severance of wildlife
1472 corridors.

1473 (5) Project site is located within a special protection area.

1474 (6) Proposed impacts to a vulnerable habitat type.

1475 (d) Upland buffer areas may require wildlife-friendly fencing
1476 and signage at the discretion of the environmental protection
1477 division.

1478 (1) The fencing shall not impede the flow of water or the
1479 movement of any wildlife and may not be constructed of
1480 wooden panels, vinyl walls, or chain link material. Wooden
1481 split-rail fence is the preferred fencing material. Any metal
1482 fence shall be comprised of metal posts with horizontal
1483 metal wire. Horizontal wire must be installed with twelve
1484 (12) inch spacing. Fence posts shall be at least eight (8) feet
1485 apart. Wetlands and desirable vegetation may not be
1486 permanently impacted to install fencing.

1487 (2) Signage shall be comprised of metal or wooden posts with
1488 an aluminum or stainless steel sign. Each sign shall be a
1489 minimum size of twelve (12) by twelve (12) inches. The
1490 language on the sign shall be printed in English and Spanish,
1491 and shall be substantially similar to the following: "Buffer
1492 and Wetland Protection Area, Do Not Disturb, No Dumping,
1493 No Native Plant Removal, No Filling. Please Help Preserve
1494 and Protect Wildlife Habitat and Water Quality. Orange
1495 County Environmental Protection Division,
1496 WetlandPermitting@ocfl.net" All sign posts shall be
1497 installed a minimum of two (2) feet into the ground and be
1498 at least four (4) feet above the ground. The signs shall be
1499 installed on every other lot line for residential lots and no
1500 more than a maximum of one hundred fifty (150) feet on
1501 open spaces. Each sign shall be installed within the landward
1502 edge of the upland buffer or wetland, whichever is more

1504 landward, and face the development. Each sign shall be
1506 fastened with tamper-proof, weather resistant fasteners. Any
deviation from the requirements of this section must be
1508 approved by the environmental protection division. All signs
must be maintained and replaced when damaged or no
longer legible.

Sec. 15-392. ~~Reserved.~~ Special protection areas.

1510 (a) The board of county commissioners has established the
1512 following special protection areas: Chapter 15, Article XIII, Wekiva
River Protection Area, Chapter 15, Article XIII, Wekiva Study
1514 Area, Chapter 15, Article XI, Econlockhatchee River Protection,
and Chapter 15, Article XVII, Innovation Way Environmental Land
Stewardship Program.

1516 (b) Applications for proposed wetland impacts on land subject
1518 to Article XI, Econlockhatchee River Protection that are classified
as class I or class II conservations areas must be approved by the
board, as described therein, unless otherwise repealed by this article.

Sec. 15-393. ~~Reserved.~~ Permit modifications and extensions.

1522 (a) Applicants seeking to modify an existing permit may qualify
1524 for a minor permit modification and reduced fee subject to the most
current adopted county fee directory if all of the following criteria
are met:

1526 (1) Modification does not increase the project area by more than
ten (10) percent or one (1) acre, whichever is less.

1528 (2) Modification does not increase the wetland impact areas
authorized in the original permit by more than ten (10)
percent or one-half (½) acre, whichever is less.

1530 (3) Modification does not contribute to water quality impacts
which were not recognized in the original permit.

1532 (4) Modification does not reduce the financial responsibility
mechanism required in the original permit.

1534 (5) Modification does not reduce on-site mitigation or the area
of any conservation easement.

1536 (6) Modification does not require a new site inspection.

1538 (7) Modification does not require a variance to any part of this
article.

1540 (8) Modification does not require a public hearing or approval
by the board of county commissioners.

1542 (9) Modification does not substantially change the design or permit conditions.

1544 (b) Applicants whose permit modification does not meet the aforementioned requirements will be required to submit for a new permit, pursuant to the requirements of section 15-386.

1546 (c) Permit extensions may be granted in the following cases:

1548 (1) Emergency order extensions consistent with section 252.363, Fla. Stat.

1550 (2) An administrative extension may be requested and granted for five (5) years barring no changes to the project site plan or on-site conditions.

1552 **Secs. 15-394—15-395. Reserved.**

DIVISION 3. HABITAT COMPENSATION RESERVED.

1554 **Sec. 15-396. Compensation required for unavoidable loss. Reserved.**

1556 ~~Habitat compensation may be in the form of monies or lands in areas designated by the county. The amount of compensation will be determined by either subsection (1) or subsection (2) at the applicant's discretion. If the applicant wishes to pursue another procedural method, the proposed method shall be submitted to the environmental protection officer for review and approval.~~

1562 ~~(1) The applicant shall submit a property appraisal to the planning director for review and approval. The appraisal report shall provide an estimated value of the entire project site that reflects values at the time of issuance of all construction approvals, the total acres of the project site and the total acres of conservation area proposed for removal. The amount of compensation monies that will be required will be determined as follows:~~

1570 ~~a. The total estimated value of the property divided by the total acreage of the property equals the average value per acre.~~

1572 ~~b. The amount of compensation monies required shall equal the average value per acre multiplied by the total acres of conservation area impact.~~

1574 ~~(2) The county shall designate areas within the county suitable for off-site mitigation or habitat compensation. An appraisal will be conducted for the designated properties by the county. The appraisal shall establish an average cost per acre. An applicant for habitat compensation shall either purchase the required amount of lands designated by the county as determined by the mitigation ratios in section 15-419 or the applicant shall pay the amount of~~

1582 compensation required based on the average cost per acre of the
lands designated by the county multiplied by the mitigation ratios in
section 15-419.

1584 (3) ~~The basis for review for habitat compensation shall be as
follows:~~

1586 a. ~~Class I conservation areas.~~ The removal, alteration or
1588 encroachment within a Class I conservation area shall only
be allowed in cases where no other feasible or practical
1590 alternatives exist that will permit a reasonable use of the land
or where there is an overriding public benefit. The
1592 protection, preservation and continuing viability of Class I
conservation areas shall be the prime objective of the basis
1594 for review of all proposed alterations, modifications, or
removal of these areas. When encroachment, alteration or
1596 removal of Class I conservation areas is permitted, habitat
compensation or mitigation as a condition of development
approval shall be required.

1598 b. ~~Class II conservation areas.~~ Habitat compensation for Class
1600 II conservation areas should be presumed to be allowed
unless habitat compensation is contrary to the public interest.

1602 c. ~~Class III conservation areas.~~ Habitat compensation shall be
allowed for Class III conservation areas in all cases.

Sec. 15-397. ~~Trust fund created.~~ Reserved.

1604 All habitat compensation required from applicants under section
15-396 shall be deposited in a fund to be known as the conservation
1606 trust fund. The fund shall be used only for the purchase,
improvement, creation, restoration and replacement of natural
1608 habitat within the county. Such funds are not required to be
expended for the replacement of the identical habitat type for the
1610 loss of which compensation was required consistent with this
division. Such funds may be commingled with other funds of the
1612 county, or state or federal funds solely for expenditure for the
purposes required under this section. All funds collected shall be
1614 expended within five (5) years for the purposes required under this
section consistent with a five-year capital improvements program.
1616 The trust fund may be pledged to secure the issuance of bonds in
anticipation of habitat compensation, or combined with other
1618 revenue sources to secure such bonds, provided the net proceeds of
such bonds are expended for the purpose required herein.

Secs. 15-398—15-415. Reserved.

**DIVISION 4. COMPENSATORY MITIGATION OF
ADVERSE DEVELOPMENT**

Sec. 15-416. ~~Alternatives.~~ Reserved.

1624 In those circumstances where the development proposal will result
1625 ~~in an adverse impact upon conservation areas not excluded by this~~
1626 ~~article, the development may proceed by either complying with the~~
1627 ~~provisions of section 15-396 or under a mitigation plan approved~~
1628 ~~pursuant to this division.~~

Sec. 15-417. ~~Preapplication—conference.~~ Applicability of requirement.

1630
1631 ~~Prior to submission of a mitigation proposal, there will be a~~
1632 ~~preapplication conference between the environmental protection~~
1633 ~~division and the applicant. The purpose of the preapplication~~
1634 ~~meeting will be to decide on the appropriate scientific evaluation~~
1635 ~~methods to be utilized, types of information which may be required~~
1636 ~~and to provide the applicant with preliminary comments and~~
1637 ~~concerns.~~

1638 (a) All applicants seeking a permit pursuant to this article are
1639 required to provide mitigation to compensate for any impact to
1640 wetlands, surface waters, their upland buffers, or their functions,
1641 including direct and secondary impacts.

1642 (b) The mitigation requirements of this article may differ from
1643 the requirements of state and federal agencies in the following
1644 circumstances:

1645 (1) Mitigation shall be required for impacts to isolated wetlands
1646 less than one-half (½) acre.

1647 (2) Mitigation shall be required for impacts to upland buffers.

Sec. 15-418. Proposal submittal requirements.

1648 (a) Each mitigation—~~proposal~~ plan submitted to the
1649 environmental protection division ~~shall be in writing and~~ shall
1650 include the following:

1651 (1) A description of the type and ~~functions~~ function(s) of the
1652 ~~conservation area~~ wetlands or surface waters being impacted
1653 by the proposed activity, ~~development~~ which shall include
1654 its acreage, flora, fauna, and hydrologic regime.

1655 (2) A list of all plant and animal species listed as endangered or
1656 threatened (pursuant to F.S. § section 581.185, Fla. Stat. and
1657 Rules rule 68A-27.003, and 68A-27.004, Fla. Admin. Code,
1658 which are incorporated by reference and made a part of this
1659 article) ~~which~~ that utilize the area and an evaluation of the
1660 probable significance of the area to the listed species.

- 1662 (3) A design for and a description of the area proposed for
1664 creation, enhancement, restoration, or compensation ~~which~~
that shall include its acreage, species to be planted, plant
1666 density, source of plants, soils and hydrologic regime.
- 1668 (4) A description of the monitoring and maintenance program.
- 1670 (5) An itemized ~~cost~~ estimate of the implementation cost of
1672 mitigation consistent with the estimating requirements of the
subdivision regulations and subject to the approval of the
county.
- 1674 (6) Additional information as may be required by the county to
evaluate the mitigation proposal.
- (b) A mitigation plan for impacts to a wetland or surface water
must be implemented prior to the associated impacts.
- (c) Confirmation of any mitigation credit purchase(s) must be
submitted to the environmental protection division prior to any
impacts.
- (d) All reasonable attempts should be made to mitigate wetland
or surface water impacts within Orange County, preferably through
either on-site or off-site mitigation. Consistent with section
373.4135, Fla. Stat., mitigation outside of Orange County will be
considered when three (3) or more of the following criteria are met:
- 1684 (1) The mitigation site is deemed appropriate to offset direct or
secondary impacts.
- 1686 (2) The mitigation site is located within the same USGS
Hydrologic Unit Code (HUC) 12 as the impact.
- 1688 (3) The applicant can demonstrate that the proposed mitigation
site will benefit the basin where the impact is to occur.
- 1690 (4) Sufficient mitigation banking credits within the county are
unavailable.
- 1692 (5) On-site mitigation opportunities are not available or are not
expected to have comparable long-term viability as available
off-site mitigation.
- 1694 (6) Off-site mitigation would provide greater ecological or
functional value than on-site mitigation.
- 1696 (e) Conveyance of a conservation easement dedicated to Orange
County over preserved uplands and wetlands may be required by
1698 this article as part of a mitigation plan and must meet the criteria
defined in section 15-364 of sufficient in-county mitigation.
1700 Wildlife-friendly fencing and signage, as described in section
1702 15-391, may be required, as determined by the environmental
protection division.

Sec. 15-419. Evaluation criteria.

1704 Mitigation proposals shall be reviewed pursuant to subsection (1)
 1705 below. The degree of impact to wetland functions, whether the
 1706 impact to these functions can be mitigated, and the feasibility of
 1707 cost-effective design alternatives which could avoid impact are all
 1708 factors in determining whether a proposed mitigation measure will
 1709 be acceptable. In addition, an evaluation of the anticipated post-
 1710 development viability and function performance will be considered
 1711 utilizing accepted scientific methods which may include, but not be
 1712 limited to, the habitat evaluation procedure (USFWS). As an
 1713 alternative, a mitigation proposal is acceptable to the county, if the
 1714 following minimum criteria will be met for conservation areas.
 1715 Ratios for mitigation for Class I conservation areas or with unlike
 1716 habitat will be considered on a case by case basis. Ratios for
 1717 mitigation for Class III conservation areas will be 1:1. Ratios for
 1718 Class II conservation areas shall be pursuant to subsection (2):

(1) ~~The basis for review for mitigation shall be as follows:~~

1720 a. ~~Class I conservation areas.~~ The removal, alteration or
 1721 encroachment within a Class I conservation area shall only
 1722 be allowed in cases where no other feasible or practical
 1723 alternatives exist that will permit a reasonable use of the land
 1724 or where there is an overriding public benefit. The
 1725 protection, preservation and continuing viability of Class I
 1726 conservation areas shall be the prime objective of the basis
 1727 for review of all proposed alterations, modifications or
 1728 removal of these areas. When encroachment, alteration or
 1729 removal of a Class I conservation area is permitted, habitat
 1730 compensation or mitigation as a condition of development
 1731 approval shall be required.

1732 b. ~~Class II conservation areas.~~ Mitigation for Class II
 1733 conservation areas should be presumed to be allowed unless
 1734 mitigation is contrary to the public interest.

1735 c. ~~Class III conservation areas.~~ Mitigation shall be allowed for
 1736 Class III conservation areas in all cases.

1737 (2) ~~The applicant shall provide reasonable assurance that the~~
 1738 ~~proposed wetlands creation will be viable and will replace the~~
 1739 ~~habitat and functions performed by the Class II conservation areas~~
 1740 ~~destroyed. Reasonable assurance can be provided by type for type~~
 1741 ~~mitigation at the following ratios:~~

1742 a. ~~Freshwater marshes and wet prairies — 1.5:1.~~

b. ~~Cypress wetlands — 2.0:1.~~

1744 e. ~~Hydric hammocks, bayheads, and mixed hardwood~~
1745 ~~swamps 2.5:1.~~

1746 ~~(3) The applicant shall provide a monitoring and maintenance~~
1747 ~~program. The length and complexity of monitoring will depend~~
1748 ~~upon the type of mitigation approved, but will not be less than one~~
1749 ~~(1) year and an eighty five (85) percent coverage rate of all planted~~
1750 ~~areas.~~

1751 ~~(4) The applicant shall provide reasonable assurance that the~~
1752 ~~proposed development has the financial and institutional stability to~~
1753 ~~carry out the mitigation, monitoring, and maintenance requirements.~~
1754 ~~Reasonable assurance can be provided in the form of a surety bond~~
1755 ~~posted by the applicant to the county prior to the disturbance of the~~
1756 ~~conservation area in the amount of one hundred ten (110) percent of~~
1757 ~~the cost estimate of the proposed mitigation, maintenance, and~~
1758 ~~monitoring plan. Other forms of reasonable assurance may include~~
1759 ~~a performance guarantee as part of a project construction guarantee,~~
1760 ~~cash bond or letter of credit from a financial institution, or~~
1761 ~~performance prior to wetland impacts.~~

1762 ~~(5) The applicant shall provide other items that may be required~~
1763 ~~by the board of county commissioners to provide reasonable~~
1764 ~~assurance that the mitigation plan requirements are met.~~

1765 (a) A mitigation plan submitted shall be assessed using the
1766 Uniform Mitigation Assessment Method (UMAM) adopted in
1767 chapter 62-345, Fla. Admin. Code, except for a project proposing a
1768 plan that purchases mitigation credits at a mitigation bank that was
1769 awarded credit using a different assessment method, or projects
1770 proposing a donation to the Orange County Conservation Trust
1771 Fund.

1772 (b) The following forms of mitigation may be accepted by the
1773 environmental protection division:

1774 (1) The purchase of mitigation credits at a permitted mitigation
1775 bank.

1776 (2) Mitigation that provides equitable wetland function through
1777 one (1) or more of the following mechanisms, either on or
1778 off the project site:

1779 a. Restoration of degraded existing or former wetlands.

1780 b. Enhancement of degraded existing wetlands.

1781 c. Preservation of wetlands.

1782 d. Preservation of uplands with a nexus to wetlands.

1783 e. Creation of wetlands within current uplands.

1784 (3) Payment of a monetary contribution to Orange County’s
1786 Conservation Trust Fund. The contribution amount must
 equal the functional loss, calculated pursuant to chapter
1788 62-345, Fla. Admin. Code, multiplied by the average market
 rate for mitigation credits at a permitted mitigation bank that
 services the project area.

1790 (c) The appropriate mitigation must have equal or better
 function as compared to the affected wetland or surface water prior
1792 to the impact activity.

(d) For a project with an valid state permit that contains an
1794 approved UMAM evaluation determined by chapter 62-345, Fla.
 Admin. Code, this article shall require the environmental protection
1796 division use the same UMAM scores for the same wetland and
 surface water impact(s) as the state to determine the mitigation
1798 required. Consistent with section 373.414, Fla. Stat., the mitigation
 required by this article may vary from state mitigation requirements
1800 as described in section 15-417(b).

Sec. 15-420. Reserved. Mitigation monitoring required.

1802 (a) The applicant shall provide a monitoring and maintenance
 program. Monitoring and maintenance of a mitigation site(s),
1804 excluding those within a mitigation bank, must be provided in
 perpetuity. The applicant shall provide an annual report detailing
1806 monitoring and maintenance activities for the first five (5) years of
 the plan. After five (5) years, applicants must provide monitoring
1808 and maintenance reports every five (5) years. At a minimum,
 maintenance and monitoring requirements are as follows:

1810 (1) Less than a five (5) percent areal coverage of invasive
 species presence must be maintained within the mitigation
1812 site, including the upland buffer;

(2) Trash must be removed from the entire mitigation area,
1814 including the upland buffer; and

(3) If required by the environmental protection division,
1816 wildlife-friendly fencing and signage must be installed and
 maintained, consistent with section 15-391.

1818 (b) Wetlands used for on-site or off-site mitigation shall require
 groundwater level monitoring. The applicant will be responsible for
1820 installing monitoring equipment, retrieving data, and ensuring that
 data collection equipment remains operable. Monitoring data must
1822 be submitted with the required reporting documentation. Orange
 County shall be granted access to on-site monitoring wells.

1824 (c) Remedial actions will be required if the mitigation site is
 found to be in decline.

1826 (d) Perpetual maintenance and monitoring must be performed
1828 by the permittee or any subsequent owner(s) of the project site, or
 by an authorized and approved representative.

1830 (e) Upon fifteen (15) years of compliant maintenance and
 monitoring, the permittee or any subsequent owner(s) of the project
1832 site, may request a reduced frequency of monitoring and
 maintenance, which may be granted at the discretion of the
 environmental protection division.

1834 (f) The applicant shall provide reasonable assurance that the
 proposed development has the financial and institutional stability to
1836 carry out the mitigation, monitoring, and maintenance requirements.
 Reasonable assurance can be provided in the form of a surety bond
1838 posted by the applicant to the county prior to the disturbance of the
 wetland in the amount of one hundred ten (110) percent of the cost
1840 estimate of the proposed mitigation, maintenance, and monitoring
 plan. Other forms of reasonable assurance may include a
1842 performance guarantee as part of a project construction guarantee,
 cash bond or letter of credit from a financial institution, or
1844 completion of mitigation prior to wetland impacts.

1846 (g) The applicant shall provide other items that may be required
 by the board of county commissioners to provide reasonable
 assurance that the mitigation plan requirements are met.

1848 **Secs. 15-421—15-435. Reserved.**

1850 **Section 3. Effective Date.** This ordinance shall become effective on [redacted], 2024.

ADOPTED THIS _____ DAY OF December, 2023.

1852 ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

1854
1856 By: _____
Jerry L. Demings
Orange County Mayor

1858 ATTEST: Phil Diamond, CPA, County Comptroller
1860 As Clerk of the Board of County Commissioners

1862
1864 By: _____
Deputy Clerk

1866
1868 *s:\gholmes\ordinances\wetland conservation (ch. 15 - art. x)\2023 revision project\2023 drafts\2023-11-07 art. x - wetland conservation revision - draft.final.docx*