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## **ARTICLE 3**

### **RESOURCE PROTECTION STANDARDS**

#### **3.00.00 PURPOSE**

The purpose of this Article is to identify those resources or areas within a development site that are required to be protected from harmful effects of development. A developer should apply the provisions of this Article to a proposed development site before any other development design work is done. Application of the provisions of this Article will divide a proposed development site into areas that may be developed and areas that must generally be left free of development activity. The proposed development should then be designed to fit within the constraints imposed upon the site by its natural resources.

#### **3.01.00 TREES**

##### **3.01.01 Protection and Retention of Trees**

###### **A. Tree Protection**

No person may cut, move, remove, damage or destroy any protected tree without obtaining a tree removal development permit (tree permit). A tree is defined as any woody, self-supporting plant characterized by having a single trunk of at least six (6) inches Diameter at Breast Height (DBH) or multistem trunk system with a well-developed crown at least fifteen (15) feet high as measured from its base.<sup>2</sup>

###### **B. Minimum Tree Coverage Requirements**

Each lot shall contain a minimum of one (1) tree for every two thousand (2,000) square feet of lot area (rounded to the nearest whole number). If the lot contains an insufficient number of existing trees to meet this requirement, or if the lot has no existing trees, replacement trees shall be provided.

##### **3.01.02 Exemptions**

###### **A. Existing Residential - Owner Occupied**

Lots or parcels of land on which an owner-occupied single family, two-

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<sup>2</sup> **Cross-reference** – Article 27, Parks and Recreation, Section 27.05.13



family or mobile home is located at the time of adoption of this ordinance shall be exempt from all provisions of these tree protection regulations, provided that the minimum standards are maintained as set forth in section 3.01.01 B.

B. New Residential

Areas of a residential lot used for the building footprint, driveway, and required public services and facilities shall be exempt from the replacement requirements set forth in section 3.01.03 B.

C. Exempt Trees

The following types of trees shall be exempt from the tree protection requirements of this Code:

<b>Common Name</b>	<b>Botanical Name</b>
Australian Pine	Causuarina litorea
Australian Pine	Causuarina glauca
Brazilian Pepper	Schinus terebinthefolius
Chinaberry	Melia azedarach
Citrus	Citrus species
Ear pod tree	Enterolobium cyclocarpa
Eucalyptus	Eucalyptus species
Punk tree	Melaleuca leucadendion
Silk Oak	Grevillea robusta
Woman's tongue	Albizia lebeck

D. Existing Rights-of-way and Easements

Trees on private property within an existing public or private right-of-way or maintenance easement which must be removed or thinned to ensure the safety of the motoring public and to maintain visibility of oncoming traffic at intersecting public streets, or such other tree or trees which may disrupt public utilities, such as power lines, drainage ways and similar public needs shall be exempt. Planned public or private rights-of-way shall be designed to preserve as many trees as possible. Provided, however, specimen trees in public or private rights-of-way or utility easements shall only be removed upon the issuance of a tree removal permit. The removed specimen tree shall be replaced with replacement stock, and may be located in the right-of-way or elsewhere.

E. Commercial Growers

All commercial nurseries, botanical gardens, tree farms and grove

operations shall be exempt from the provisions of this part, but only as to those trees which were planted for silvicultural or agricultural purposes or for the sale or intended sale in the ordinary course of business.

F. Deteriorated Trees

Trees which have deteriorated as a result of age, hurricane, storms, fire, freeze, disease, lightning or other Acts of God shall be exempt from these provisions.

**3.01.03 Removal of Trees**

A. Conditions For Authorization To Remove Trees

1. It is the intent of this section to minimize the removal of trees and that no authorization shall be granted to remove a tree if the developer has failed to take reasonable measures to design and locate the proposed improvements so that the number of trees to be removed is minimized. In particular, the design must attempt to preserve specimen and historic trees.
2. No authorization for the removal of a tree shall be granted unless the developer demonstrates to the satisfaction of the City one or more of the following conditions:
  - a. A permissible use of the site cannot reasonably be undertaken unless specific trees are removed or relocated.
  - b. The tree is located in such proximity to an existing or proposed structure that the safety, utility or structural integrity of the structure is materially impaired.
  - c. The tree materially interferes with the location, servicing or functioning of existing utility lines or services.
  - d. There is compelling evidence that the tree creates a substantial hazard to motor, bicycle or pedestrian traffic by virtue of physical proximity to traffic or impairment of vision.
  - e. The tree is diseased or weakened by age, abuse, storm or

fire and is likely to cause injury or damage to people, buildings or other improvements.

f. Any law or regulation requires the removal.

B. Replacement of Removed Trees

1. Trees removed pursuant to paragraph A above shall be replaced at the expense of the developer.
2. Replacement species shall be the same general species as the tree removed or an alternate species acceptable to the City.
3. For each inch of Diameter at Breast Height removed, an inch of Diameter at Breast Height shall be replaced. As an alternative, the total cross-sectional area of the trees removed may be replaced with an equal amount of cross-sectional area of replacement stock. Cross-sectional area shall be taken at the DBH of the tree. Single trees may be replaced with two (2) or more trees provided the cross-sectional requirements are met. In no event shall replacement stock be less than six (6) feet in height nor have a DBH of less than one and one-half (1 1/2) inches.
4. A replacement tree may be a tree moved from one location to another on the site, or moved off the site pursuant to paragraph 5 below. Relocation of a tree shall be performed in accordance with sound industry practices, including watering, to ensure survival of transplanted stock. All trees relocated or replaced shall be replaced within thirty (30) days in the event that the trees expire within two calendar years of their planting date.
5. Replacement trees shall be planted on the development site. If it can be demonstrated that this is not practicable, replacement trees may be donated, or a fee in lieu may be paid, to the City for purposes of planting trees on public property. The fee in lieu shall be based on the cost of purchasing the requisite size and number of replacement trees. Costs in planting the trees are to be borne by the developer. The developer shall not be liable for paying more than \$75.00 for each tree planted or replaced.

C. Tree Banking

Where a tree is to be removed, but not used as a replacement, the City may, with the owner's permission and at its own expense, relocate the tree to a location within the City for public use. If the City does not elect to relocate the tree, it may give to the County, the School Board or any other municipality within the county the right to acquire, at their expense, the tree for relocation. The relocation shall be accomplished within fifteen (15) working days of the issuance of a permit unless it is necessary to root prune the tree to assure survival; in which case, the relocation shall be accomplished within a suitable time schedule as agreed to by all parties.

D. Historic And Specimen Trees

1. An historic tree is any live oak (*Quercus virginiana*) or bald cypress (*Taxodium distichum*) with a thirty-six (36) inch or greater DBH or other tree which is determined by the City, through a public hearing and with due notice to the property owner, to be of such unique and intrinsic value to the general public because of its size, age, historic association or ecological value as to justify this classification. Any tree in the city selected and duly designated as a Florida Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be within this definition.
2. The following species of trees with the minimum specified DBH are determined to be specimen trees:

Common Name	Botanical Name	DBH
Turkey Oak	<i>Quercus leave</i>	12 inches
Other oaks	<i>Quercus spp.</i>	18 inches
Maple	<i>Acer spp.</i>	18 inches
Sweet gum	<i>Liquidambar styraciflua</i>	18 inches
Hickory	<i>Carya spp.</i>	18 inches
Elm	<i>Ulmus spp.</i>	18 inches
Loblolly Bay	<i>Gordonia lasianthus</i>	12 inches
Sweet Bay	<i>Magnolia virginiana</i>	12 inches
Red Bay	<i>Persea borbonia</i>	12 inches
Swamp Bay	<i>Persea palustris</i>	12 inches
Sycamore	<i>Platanus occidentalis</i>	18 inches

Magnolia                      *Magnolia grandiflora*                      12 inches

3. No historic or specimen tree shall be removed without a finding by the appropriate city official that such removal is justified. Justification shall include evidence that the tree is a hazard or that not removing the tree so significantly interferes with the ability of the owner to develop the property, it is unreasonable. The developer shall explain in detail why the tree is a hazard or why the parcel is not developable without removing the historic or specimen tree.
4. The following minimum standards will apply to the issuance of a tree removal permit:

### **3.01.04                      Protection of Trees during Development Activities**

#### **A.                      General**

1. To assure the health and survival of protected trees that are not to be removed, the developer shall avoid the following kinds of tree injuries during all development activities:
  - a. Mechanical injuries to roots, trunk, and branches;
  - b. Injuries by chemical poisoning;
  - c. Injuries by grade changes;
  - d. Injuries by excavations; and
  - e. Injuries by paving.
2. At a minimum, the protective measures described below shall be taken where appropriate to the development activity. The measures shall be planned and undertaken in consultation with the County Forester or other qualified individual and shall not be construed as limiting the authority of the City to impose additional reasonable requirements as may be necessary to preserve the health of protected trees in particular circumstances.

#### **B.                      Avoiding Mechanical Injuries**

1. Prior to any land preparation or other development activities a protective barrier easily visible to equipment operators shall be placed around all protected trees so as to encompass the entire tree protection zone, which encompasses the total area within the drip line or a radius of 20 feet, whichever is less.

2. No attachment, wires (other than supportive wires), signs or permits may be fastened to any protected tree.
3. No equipment, construction materials or debris of any kind shall be placed within the protective barrier.
4. Landscaping activities within the bounds of the protective barrier (before and after it is removed) shall be accomplished with light machinery or manual labor. Grubbing and similar activities are prohibited.
5. In lieu of constructing the barriers required above, the developer may physically designate large areas containing protected trees where no land preparation or other development activities of any kind will occur. The area shall be designated by placing stakes a maximum of twenty five (25) feet apart and tying ribbon, plastic tape, rope, etc., from stake to stake along the outside perimeter of the area. This perimeter line shall be beyond the tree protection zone of any protected trees growing within the area.
6. Required protective barriers and perimeter lines shall remain in place until all construction activity, except landscaping within the protected area, is terminated.

C. Avoiding Injuries Due To Chemical Poisoning

1. No fuel, paint, solvent, oil, thinner, asphalt, cement, grout or any other construction chemical or other material or tools of any kind shall be stored, or allowed in any manner to enter, within a required protective barrier or perimeter line.
2. No equipment shall be cleaned within a required protective barrier or perimeter line.

D. Avoiding Injuries Due To Grade Changes

Grade changes shall not be made within the tree protection zone unless the following protective measures are taken:

1. When raising the grade, the following measures shall be taken:

- a. Within the tree protection zone, existing sod, vegetation and leaf litter shall be removed and the soil loosened without injuring the roots.
- b. The area within the tree protection zone shall be properly fertilized to improve the vigor and growth of the roots.
- c. Porous, four-inch agriculture drain tiles shall be laid over the soil to drain liquids away from the trunk. A drop of at least one eighth (1/8) inch per foot shall be provided. The drain field shall be designed to provide adequate drainage of the existing configuration of the trees.
- d. The number of drains shall depend upon soil material; lighter sandy soils and porous gravelly material require fewer drains than heavy non-porous soils.
- e. Aeration shall be provided by installing vertical tiles along the system. The vertical tiles shall be filled with gravel and capped with a heavy-duty mesh to keep out trash and debris.
- f. Dry wells shall be large enough to allow for maximum growth of the tree trunk. Most large shade trees require at least a sixty (60)-inch diameter well. For slow-growing mature trees, a space of twelve to eighteen (12-18) inches shall be provided between the trunk and the side of the well at every point.
- g. To prevent washing of material into the well, the dry well casing walls shall be high enough to bring the top of the wall above the level of the proposed fill.
- h. Dry well walls shall be constructed of materials that permit passage of air and water. Concrete blocks backed with galvanized screening may be used for the sides of the well.

- i. Gratings or barriers shall be used around openings that are large enough to present a hazard to pedestrians.
  - j. Open wells shall be cleaned regularly to remove sediment, leaves, and debris that might interfere with the free passage of air.
  - k. Large stones shall be placed over the drainage tiles and a layer of smaller stones shall be placed over the remainder of the ground within the drip line.
  - l. A layer of gravel shall be placed over the stones.
  - m. The fill shall be completed with a layer of porous soil.
  - n. The maximum depth of a dry well shall be two and a half (2 1/2) feet.
2. When lowering the grade, the following measures shall be taken:
- a. Roots shall be cut cleanly and re-trimmed after excavation.
  - b. The canopy shall be pruned to aid in maintaining tree vigor.
  - c. When lowering the grade of the soil surrounding a protected tree, the maximum number of tree roots within the tree protection zone shall be preserved by using any of the following methods:
    - (1) Terracing. The area within the tree protection zone is left at the original grade by terracing.
    - (2) Retaining wall. The area within the tree protection zone is left at the original grade constructing a dry retaining wall. The retaining wall shall be porous to allow for aeration.
    - (3) Terracing and retaining wall. The area within the tree protection zone is left at the original grade by the combined use of terracing and dry retaining wall.
3. Minor Changes in Grade



When the change in grade is minor, lesser protective measures than those described above may be taken. The City shall approve the use of these methods where their use will not endanger the health of the protected tree.

E. Avoiding Injuries Due To Excavations

1. Water, sewer, and other utility lines should be routed around the tree protection zones of protected trees.
2. If a line cannot reasonably be routed around the tree protection zone, the line shall be tunneled beneath the area within the zone. The tunnel shall be offset to one side of the trunk to prevent damage to the main tap roots.

F. Avoiding Injury by Paving within the Drip Line

Porous paving may be placed within the tree protection zone of a tree, so long as no damage is inflicted to the tree by grade change, compaction of the soil, or any other cause.

**3.01.05 Special Provisions For Protection of Canopy Roads**

A. General

The City Commission may determine that certain trees providing a canopy over or a line along roadways within the city merit special protection. It is the purpose of this section to describe the procedures for designating roadway sections and the additional protection afforded to these trees.

B. Designation of Roadways

Roads shall be nominated as tree-lined and canopy road protection areas by the Planning & Land Development Regulation Commission or any resident of the city. Designation shall be through a public hearing held by the City Commission.

C. Restrictions

The City Commission shall determine the extent of the area needing to be protected from the removal or destruction of trees in order to maintain the character of the roadway. No species within a designated area of protection shall be removed without permit. Trees which are approved for removal

shall be replaced with one and one half (1.5) times the number of trunk circumference inches as the removed tree(s).

**3.01.06 Preservation of Historic or Specimen Trees As Grounds for Variance from Other Requirements of This Code**

The preservation of any historic or specimen tree may be considered as a factor in rendering a decision upon an application for a variance from the literal application of other requirements of this Code.

**3.01.07 Purpose**

The City of Lake Helen recognizes the substantial economic, environmental and aesthetic benefits that a well-managed treescape provides the community, its residents and its visitors. It is the purpose of this Ordinance to establish specific responsibilities within the City of Lake Helen's governmental structure to administer and implement the standards, techniques, methods and procedures necessary to protect and maintain the City's tree resources.

(Ord. No. 2003-11; §1, 12-4-2003)

**3.01.08 Establishment of Tree Protection and Maintenance Responsibilities**

It shall be the responsibility of the City Administrator, or his/her designee, to insure that the tree resource protection standards established in Sections 3.01.00-3.01.06 of the City of Lake Helen Code of Ordinances are administered and enforced. It shall be the responsibility of the Public Works Department, as the City's Tree Protection Department, to prepare, annually update and implement a work plan for the care, preservation, pruning, planting, removal and replacement of trees within City rights-of-way and on City properties. It shall be the responsibility of the Planning and Land Development Regulation Commission to insure that the tree resource protection standards established in Sections 3.01.00-3.01.06 of the Code of Ordinances are complied with through application of said Code provisions in the development review process.

(Ord. No. 2003-11; §2, 12-4-2003)

**3.02.00 ENVIRONMENTALLY SENSITIVE LANDS**

**3.02.01 General Provisions**

- A. Relationship to Other Requirements Relating To the Protection of Environmentally Sensitive Lands

In addition to meeting the following protection of environmentally sensitive lands requirements, development plans shall comply with applicable federal, state, county and water management district regulations relating to environmentally sensitive lands. In all cases the strictest of the applicable standards shall apply.

B. Future Land Use Element Incorporated By Reference

The Future Land Use Element of the City Comprehensive Plan as from time to time amended is hereby incorporated by reference into this Code.

C. Compliance When Subdividing Land

Each lot of a proposed development must include a site suitable for constructing a structure in conformity with the standards included in this section.

**3.02.02 Wetland Protection Areas**

A. Designation of Wetland Protection Areas

1. All wetlands in the City are subject to the Conservation Land Use designation as provided for in the City's Comprehensive Plan.
2. The boundaries of these areas shall be the most landward extent of the following:
  - a. Areas within the dredge and fill jurisdiction of the Department of Environmental Regulation as authorized by Section 403 of the Florida Statutes.
  - b. Areas within the jurisdiction of the U.S. Army Corps of Engineers as authorized by Section 404, Clean Water Act or Section 10, River and Harbor Act.
  - c. Areas within the jurisdiction of the St. Johns River Water Management District pursuant to Section 40C-4.042, Florida Administrative Code.

B. Allowed Activities in Wetland Protection Areas

No development activity shall be undertaken in a wetland area except for

the following activities. These activities are presumed not to have a significant effect on the functional values of the area and may be undertaken unless it is shown by competent and substantial evidence that the specific activity would have a significant adverse effect.

1. Scenic, historic, wildlife, or scientific preserves.
2. Timber catwalks four (4) feet or less in width.

C. Wetland Permit

A permit is required prior to undertaking any development activity or land clearing within a wetland.

**3.02.03 Wetland Buffer Areas**

A. Designation of Wetland Buffer Areas

Wetland buffers are required adjacent to and surrounding all isolated wetlands. A natural vegetative buffer of not less than twenty-five (25) feet in width measured from the wetlands or from the highest-known watermark, whichever is greater, shall be established. Wetland buffers greater than twenty-five (25) feet in width shall be required if the upland activity will adversely impact the wetland's beneficial functions.

B. Allowed Activities in Wetland Buffer Areas

The following uses and activities are presumed to not have an adverse effect on wetland buffer areas:

1. Scenic, historic, wildlife, or scientific preserves.
2. Timber catwalks and trail bridges that are less than or equal to four (4) feet wide.
3. Pruning, planting of suitable native vegetation, removal of exotic and nuisance pioneer plant species.

D. Wetland Buffer Permit

A permit is required for any activity undertaken within a wetland buffer area.

**3.02.04 Lake Protection Areas**

A. Designation of Lake Protection Areas

A Lake Protection Area shall be established adjacent to and surrounding all lakes for a distance extending seventy-five (75) feet landward of the mean high water line.

B. Allowed Activities in a Lake Protection Area

Within the Protection Area no development activity shall be permitted except for an allowance for access. No more than 20 percent or 25 feet, whichever is greater, of the shoreline within property boundaries may be altered for reasonable access. The remainder of the shoreline shall be maintained in unaltered native vegetation, except for pruning, planting of suitable native vegetation and removal of exotic and nuisance plant species. Provided, however, that any portion of a principal or accessory residential dwelling structure, in existence on March 18, 2004, and which is non-conforming to the Code as a result of encroaching into a Lake Protection Area boundary, may be altered, expanded, enlarged or restored in the area of encroachment if such activity does not create an encroachment into the Lake Protection Area boundary that is closer than that which exists on March 18, 2004, and which does not create a new non-conformity. Any such afore described activity that is conducted within a Lake Protection Area shall be required to incorporate environmental best management practices for lake protection, as specified by the City at time of permit approval, into project design and implementation.  
(Ord. No. 2004-03; § 2, 3-18-2004)

C. Lake Protection Permit

A permit is required for any activity undertaken within a Lake Protection Area.

**3.02.05**

**Findings / Legislative Intent, Ordinance Number 2004-03**

WHEREAS, the development of residential uses within the City of Lake Helen has a significant impact on the well-being of the citizens of the City of Lake Helen, the quality of life in the City and the compatibility and harmonizing of land uses; and

WHEREAS, the City Commission of the City of Lake Helen has concluded that lakefront property owners can renovate, remodel or restore existing lakefront non-conforming principal residential dwelling structures without harm to the lake environment, if said renovation, remodeling or restoration is restricted in such a manner so as not to encroach any closer on a lake's mean high water line than the structure presently does, and if said renovation, remodeling or restoration incorporates appropriate environmental best management practices into project design and implementation; and

WHEREAS, the application of existing land development regulations with regard to development in lake protection areas require amendment in order to comport with sound land use and environmental practices and principles when conducting development activities related to non-conforming residential dwelling structures; and

WHEREAS, the City Commission of the City of Lake Helen, based upon the foregoing, finds that adopting an amendment to the Code of Ordinances of the City of Lake Helen is appropriate and will further the interests of the City and its citizens.

(Ord. No. 2004-03; § 1, 3-18-2004)

### **3.02.06 Permit Fees**

A permit fee shall be collected at the time the standard application package is submitted and will reflect the cost of the administration and management of the permitting process. The city commission will establish by resolution a fee schedule based upon the relative complexity of the project, and such schedule may be amended from time to time by the commission by resolution. Notice of said resolution shall be published as provided by law.

Where work for which a permit is required by this article is commenced prior to obtaining the permit, the fees herein specified shall be doubled; but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this article in the execution of the work nor from any other penalties prescribed herein.

### **3.02.07 Penalties and Violations**

Violation of this article shall be reported to the City Code Enforcement Board. The Enforcement Board shall notify the violator and schedule a hearing on said violations. Upon a finding that there is a violation, the Board may order the violator to pay a fine not to exceed five hundred dollars (\$500.00) per day for each violation until compliance. The Enforcement Board shall proceed in accordance with 10.05.04 through 10.05.10 of the City Code of Ordinances.

## **3.03.00 GROUNDWATER AND WELLHEADS**

### **3.03.01 Purpose and Intent**

The purpose of groundwater protection standards is to safeguard the health, safety and welfare of the residents of the City. This is accomplished through ensuring the protection of the principle source of water for domestic, commercial, and industrial use. The availability of adequate and dependable supplies of good quality water is

of primary importance to the future of the City. Therefore, standards are described in this section with the intent of protecting both the quantity and quality of the groundwater supply. It is further the intent of this section to control development in and adjacent to designated wellheads to protect potable water supplies from potential contamination.

### **3.03.02 Restrictions on Development**

#### **A. Within The Primary Well Field Protection Zone**

No development activities shall take place within three hundred and fifty (350) feet of a wellhead associated with a public potable water supply well or private potable water supply well six inches (6") in size or larger. Any private well within the primary well field protection zone shall be tested annually for contaminants.

#### **B. Within The Secondary Well Field Protection Zone**

The following uses and activities are not allowed within eight hundred (800) feet of a Primary Well Field Protection Zone.

1. Facilities for the bulk storage, handling or processing of materials on the Florida Substance List (Ch.442, F.S.).
2. Activities that result in the storage, use, handling, production or transportation of hazardous waste as defined by the federal Resource Conservation and Recovery Act of 1976.
3. Feedlots or other concentrated animal facilities.
4. Wastewater treatment plants, percolation ponds, and similar facilities.
5. Excavation of waterways or drainage facilities which intersect the water table.

### **3.04.00 HABITAT OF ENDANGERED OR THREATENED SPECIES**

#### **3.04.01 General**

##### **A. Purpose And Intent**

It is the purpose of this part to identify the standards to be met in order to protect the habitat of listed species occupying undeveloped areas of the City. In most instances this will require that an appropriate amount of land be set aside to protect the habitat of endangered, threatened or special concern plant and animal species.

B. Applicability

Areas subject to the standards of this Part shall be those identified in the Conservation Element of the City's Comprehensive Plan as habitat for rare and endangered species, threatened species, or species of special concern.

**3.04.02 Habitat Protection Standards**

A. Minimum Standards

All development shall contain a minimum of thirty-five percent (35%) open space within property boundaries, landscaped with existing native vegetation or planted native species.

B. Listed Species Assessment Report

A Listed Species Assessment Report shall be required for the following types of development:

1. Non-residential development, 5 acres or greater
2. Any residential development consisting of 5 acres or greater that will be subdivided into 2 or more lots.

The Assessment Report will consist of a survey by an ecologist, biologist or other similar professional to determine the presence of plant and animal species listed by either the Florida Game and Fresh Water Fish Commission or the U.S. Fish and Wildlife Service, as endangered, threatened, or species of special concern or actively being considered for such designation. The report will include the following information:

1. The size and distribution of native vegetation, wildlife and listed species populations.
2. The feasibility and viability of on-site protection through the retention of sufficient native habitat to accommodate the various wildlife species utilizing the site.
3. Whether a wildlife corridor exists on-site or the project is adjacent to a corridor.
4. The feasibility of maintaining an on-site wildlife corridor.



5. A management plan shall be incorporated into the Assessment Report and the final site plan application that protects any listed wildlife and plant species found on the site.
6. The management plan shall also address the appropriateness of off-site mitigation in the event that on-site mitigation is shown to be ineffective.

C. Conformity of Development Plan

The Development Plan approved for a development shall substantially conform to the recommendations in the Listed Species Assessment Report and management plan.

D. Preservation of Land

Where land on a proposed development site is to be preserved as habitat of endangered, threatened or special concern species, such land shall be adjacent to existing viable habitat, a significant wetland system, floodplain, or wildlife corridor. If such lands are not adjacent to the development site, land to be set aside shall be of such quantity and quality as to provide viable habitat, as documented in the study required in paragraph B above.

E. Fee in Lieu

As an alternative to preservation of land, the City may establish a fee-in-lieu-of-land program, whereby the City can purchase land which will provide significant habitat or participate in a county or regional land banking/mitigation program. If such a program is established, participation in it is at the discretion of the City.

**3.05.00 REGULATION OF WATER USAGE**

**3.05.01 Legislative Findings/Water Use Regulations**

A. Legislative Findings, Ordinance Number 2002-03

WHEREAS, the availability and quality of water is critical to the health, safety, and welfare of the citizens of the City of Lake Helen; and

WHEREAS, on January 10, 2001 the St. Johns River Water Management District ("SJRWMD" or "District") issued an order declaring a severe water shortage within the following counties: Lake, Marion, Orange, Polk, Seminole and

Volusia; and

WHEREAS, the City Commission of the City of Lake Helen is deeply concerned with the availability of water to the citizens of the City of Lake Helen and the appropriate use of limited water resources within the City of Lake Helen; and

WHEREAS, the City Commission of the City of Lake Helen desires to take prudent action consistent with the actions of the Volusia County Council and the SJRWMD that will help conserve the water resources of the citizens of the City of Lake Helen; and

WHEREAS, the City Commission of the City of Lake Helen deems it necessary and advisable to enact on Ordinance that prescribes for appropriate water usage within the City Limits of the City of Lake Helen; and

WHEREAS, the City Commission of the City of Lake Helen finds and declares that it is in the best immediate interest of the health, safety and general welfare of the citizens of the City of Lake Helen that the use of water usage within the City of Lake Helen be consistent with and harmonize with the regulations of Volusia County as set forth in Chapter 50, Article III, Division 8 of the *Volusia County Code*; and

WHEREAS, the appropriate use and conservation of water within the environs of the City of Lake Helen has the potential to assist in the maintenance of the sound environmental quality of the lakes located within the City Limits of the City of Lake Helen; and

WHEREAS, this Ordinance is consistent with the *Lake Helen Comprehensive Plan* and the City's *Code of Ordinances*.

B. The provisions of this article are to be construed in harmony with the provisions of Section 5.03.06 P of the *Code of Ordinances of the City of Lake Helen*. The water use regulations hereby enacted by the City Commission of the City of Lake Helen are hereby found to be in the best interests of the citizens of Lake Helen and to protect and promote the public health, safety and welfare.

(Ord. No. 2002-03; § 1, 4-18-2002)

### **3.05.02 Definitions**

The following terms are assigned the following definitions for the purpose of this article:

**Agricultural use** means the use of land in horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, beekeeping, pisciculture and

all forms of farm products and farm production.

**Automatic system** means any irrigation method or system with a timing device that controls the periods of operation.

**District or SJRWMD** means the St. Johns Water Management District.

**Even numbered address** means the house address, box number or rural route ending in the numbers 0, 2, 4, 6, 8 or the letters A-M. Post box numbers are not included.

**Heating and air-conditioning use** means the use of water for heating, cooling or air-conditioning.

**City** means the City of Lake Helen, Florida.

**Low-volume hand watering** means low-volume irrigation of plants or crops with one hose attended by one (1) person, fitted with a self-canceling or automatic shutoff nozzle.

**Low-volume irrigation** means the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirements of the plant being irrigated and to allow that water to be placed with a high degree of efficiency in the root zone of the plant. Micro-irrigation and drip-irrigation are examples of low-volume irrigation. Low-volume irrigation also includes water used in mist houses and similar establishments for plant propagation.

**Low-volume pressure cleaning** means pressure cleaning by means of equipment which is specifically designed to reduce the inflow volume as accepted by industry standards.

**Manual system** means any irrigation method or system that does not have a control device that is automatically timed. Low volume hand watering is a manual system.

**Mobile equipment** means any public, private or commercial automobile, truck, trailer, railroad car, camper, boat, or any other type of similar equipment. The term shall not include sanitation or sludge vehicles or food vending or transporting vehicles.

**Odd numbered address** means the house address, box number or rural route ending the numbers 1, 3, 5, 7, 9 or the letters O-Z. Post box numbers are not included.

**Reclaimed water** means the water that meets the current Florida Department of Environmental Protection standards for reuse after flowing

out of any treatment plant or works.

**Reuse** means the deliberate application of reclaimed water for beneficial purpose. Uses include landscape irrigation, agricultural irrigation, aesthetic uses, groundwater recharge, industrial uses, fire protection or other useful purposes.

**User** means any person, natural or artificial individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity, the United States of America, and the state or any political subdivisions, region, district, municipality or public agency thereof, which directly or indirectly takes water from the water resource, including but not limited to uses from private or public utility systems, uses whether or not under consumptive use permits pursuant to Chapter 40C-2, *Florida Administrative Code*, or uses from individual wells or pumps for domestic or individual home use or other use. The term does not include persons who use only treated effluent or seawater.

**Volusia Water Alliance or VWA** means that regional water supply cooperative organization as created by the May, 1996 interlocal agreement pursuant to the provisions of Section 163.01, *Florida Statutes*, as amended and restated.

**Water conservation** means a continuing effort to use only as much water as absolutely necessary, whether for drinking, washing, flushing, irrigating or any other use. Water conservation is awareness that water resources are not unlimited.

**Water shortage** means that situation when insufficient water is available to meet the needs of the users, or when conditions are such as to require temporary reduction in total use within a particular area to protect water resources from serious harm. A water shortage usually occurs due to drought.

**Water shortage plan** means the St. Johns River Water Management District's Chapter 40C-21, *Florida Administrative Code*, Water Shortage Plan.

(Ord. No. 2002-03; § 2, 4-18-2002)

### **3.05.03 Penalty**

This article may be enforced by either or both the Volusia County Council and the Lake Helen City Commission and/or their designees. Any person found guilty of a violation of any provisions of this article or any lawful order of the County Council or City Commission, or enforcement official or their duly authorized representative, shall be punished in accordance with Section 1-7, *Volusia County Code*, and/or the applicable provisions of the

*Code of Ordinances of the City of Lake Helen* and shall, also, be responsible for reimbursing the City its attorneys fees, filing fees, Sheriff service fees and costs incurred in correcting the violation. A separate offense shall be deemed committed for each day during which a violation, disobedience, omission, neglect or refusal shall continue<sup>3</sup>.  
(Ord. No. 2002-03; § 3, 4-18-2002)

### **3.05.04 Variances<sup>4</sup>**

- A. When the City Commission finds that compliance with any of the requirements of this article would result in undue hardship for a specific user, a variance from anyone (1) or more such requirements may be granted by the City Commission, provided the variance is the minimum necessary to alleviate such undue hardship for the user and to the extent such variance can be granted without impairing the intent and purpose of this article.
- B. All users requesting a variance from the provisions of this article shall file a petition for variance, but must confirm to the greatest possible extent to the water use restrictions of this article until such variance is granted.
- C. A petition for variance shall be in writing and contain, at minimum, the following information:
  - 1. The petitioner's name and address.
  - 2. The specific provision from which the petitioner is requesting a variance.
  - 3. A detailed statement of the facts which the petitioner believes demonstrate that the request qualifies for variance under Subsection D. of this Section.
  - 4. A description of the variance desired.
  - 5. The period of time for which the variance is sought, including the reasons and facts in support thereof.
  - 6. The damage or harm resulting or which may result to the petitioner from compliance with the provision(s) from which a variance is sought.
  - 7. The steps the petitioner is taking to meet the provisions from which the variance is sought and when compliance could be achieved.

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<sup>3</sup> **Cross-reference** – Article 1, General Provisions, Section 1.11.02 General Penalty

<sup>4</sup> **Cross-reference** – Article 13, Nonconforming Development, Variances, Special Exceptions, Changing Land Use (Rezoning), Section 13.02.00 Variances.

8. Other relevant information the petitioner believes supports his or her petition for variance.
- D. No petition for variance may be approved unless the petitioner affirmatively demonstrates that one (1) or more of the following circumstances exists:
1. The variance is essential to protect health or safety; or
  2. Compliance with the provision from which a variance is sought will require measures which, because of their extent or cost, cannot be accomplished; or
  3. Compliance with the provision from which a variance is sought will result in a substantial economic, social or health burden on the petitioner or those served by the petitioner; or
  4. Alternative restrictions which achieve the same level of demand reduction as the provision are available and reflect the intent and purpose of this article.
- (Ord. No. 2002-03; § 4, 4-18-2002)

### **3.05.05 Declaration of Water Shortage**

- A. The City Commission acknowledges that the groundwater resource available to its citizens is a sole-source aquifer and is not connected to other groundwater resources. The City Commission deems it necessary to be able to determine water shortage based on the data available in the City independent of data available elsewhere in the St. Johns River Water Management District.
- B. The City Commission shall declare a water shortage or a water shortage emergency based on public concern and technical information, such as, but not limited to, groundwater levels, spring flows and rainfall, and shall establish a specific level of water conservation and use corresponding to a level as set forth in Section 3.05.06, and may consider the level of water conservation and use recommended by the Volusia Water Alliance.
- C. In the event the St. Johns River Water Management District declares water shortage and implements its water shortage plan, Chapter 40C-21, *Florida Administrative Code*, the water shortage plan and all elements of said plan become effective and take precedence over the provisions of this article, provided that the plan provides for a more restrictive level of water conservation than the level in effect. At such time as the declared St. Johns River Water Management District water shortage expires, then all provisions of this article become effective and enforceable.

**3.05.06 Levels of Water Conservation and Water Shortage**

The City Commission, in order to provide the necessary levels of year round water conservation and provide for the most logical transition to declare water shortage, water shortage emergency or the St. Johns River Management District water shortage plan, shall establish the following levels of water conservation and use:

A. Base Water Conservation Level. This level is as follows:

1. The use of water for landscape irrigation is allowed only during the following times: Three (3) days a week from 4:00 a.m.-8:00 a.m. and 4:00 p.m.-8:00 p.m. (5:00 p.m.-9:00 p.m. during daylight savings time) for manual irrigation systems and 4:00 a.m.-8:00 a.m. only for automatic irrigation systems.

Even numbered addresses and residences without address numbers may water at these times on Tuesdays, Thursdays and Sundays, odd numbered addresses on Mondays, Wednesdays and Saturdays. On Fridays no watering is permitted.

2. The use of water for irrigation from a reclaimed water system is allowed anytime provided appropriate signs are placed on the property to inform the general public and District enforcement personnel of such use. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented by water from another source during peak demand periods.
3. Irrigation of new landscape plantings is allowed any day, except between 10:00 a.m. and 4:00 p.m., for one (1) thirty (30)-day period, provided irrigation is limited to the amount necessary for plant establishment.
4. Watering of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides, when required by law, the manufacturer, or best management practices, is allowed anytime within twenty-four (24) hours of application.
5. Irrigation systems may be operated anytime for maintenance and repair purposes, not to exceed ten (10) minutes per hour per zone.
6. Excessive use of water for landscape irrigation or over watering of landscaping is prohibited. Overspray of irrigation water onto impervious surfaces is prohibited.

7. Mobile equipment washing shall utilize an automatic shutoff/self-canceling spray nozzle. Mobile equipment washing shall be on pervious surfaces whenever feasible or at a commercial water recycling automobile wash.
  8. The washing of sidewalks, walkways, driveways, parking lots, tennis courts and all other impervious areas shall utilize an automatic shutoff/self-canceling spray nozzle or low volume pressure cleaning. Excessive use of water for washing of impervious areas is prohibited. Runoff from impervious surface washing shall be directed as much as possible towards pervious areas.
  9. Filling or refilling of swimming pools, except as necessary during construction process, repairs, or following any voluntary cessation of use of the pool to prevent the leakage of water, and except as necessary to raise the level of water to allow the pool's skimmer to properly function, is prohibited. The continuous refilling of swimming pools while a leak is occurring is hereby prohibited.
- B. *Level II. Water Conservation Level.* Level II shortage corresponds to the St. Johns River Water Management District's Phase II Sever Water Shortage Plan and all provisions therein as set forth in Rule 40C-21.631, *Florida Administrative Code*. In addition, the use of water for landscape irrigation purposes by manual irrigation systems is allowed during the evening from 4:00 p.m. - 8:00 p.m. (5:00 p.m. - 9:00 p.m. during daylight savings time) on specific days and street addresses permitted by the St. Johns River Water Management District in the above-described Phase II - Sever Water Shortage Plan requirements. In the event the District declares a Phase II - Sever Water Shortage Plan, the District requirements shall supersede this provision.
- C. *Level III. Water Conservation Level.* Level III shortage corresponds to the St. Johns River Water Management District's Phase III Extreme Water Shortage Plan and all provisions therein as set forth in Rule 40C-21.641, *Florida Administrative Code*. In addition, the use of water for landscape irrigation purposes by manual irrigation systems is allowed during the evening from 4:00 p.m. - 7:00 p.m. (5:00 p.m. - 8:00 p.m. during daylight-savings time) on the specific days and street address permitted by the St. Johns River Water Management District in the above-described Phase 111 - Extreme Water Shortage Plan requirements. In the event the District declares a Phase 111- Extreme Water Shortage Plan, the District requirements shall supersede this provision.
- D. *Level IV. Water Conservation Level.* Level IV Shortage corresponds to the St. Johns River Water Management District Phase IV Critical Water Shortage Plan and all provisions therein as set forth in Rule 40C-21F.651, *Florida Administrative Code*. In addition, the use of water for landscape



irrigation purposes by manual irrigation systems is allowed during the evening, from 6:00 p.m. - 7:00 p.m. on the specific days and street addresses permitted by the St. Johns River Water management District in the above-described Phase IV - Critical Water Shortage Plan requirements. In the event the District declares a Phase IV - Critical Water Shortage Plan, the District requirements shall supersede this provision.  
(Ord. No. 2002-03; § 6, 4-18-2002)

### **3.05.07 General Restrictions on Water Use**

- A. *Excessive or unnecessary water use.* Excessive, wasteful and unnecessary water use is hereby prohibited. Excessive, wasteful and unnecessary water use includes, but is not limited to:
1. Allowing water to be dispersed without any practical purpose to the water user, regardless of the type of water use.
  2. Allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use.
  3. Allowing water to be dispersed to accomplish a purpose for which water use is unnecessary or which can be readily accomplished through alternative methods of significantly less water use.
- B. *Discharge of groundwater used in heating or air-conditioning systems.* All groundwater utilized in water-to-air heating and air-conditioning systems must be directed to landscape irrigation systems, groundwater injection or exfiltration systems. Off-site discharge from heating and air-conditioning systems is prohibited.
- C. All automatic landscape irrigation systems shall be equipped with rain sensor devices, within eighteen (18) months from April 18, 2002.  
(Ord. No. 2002-03; § 7, 4-18-2002)

### **3.05.08 Reference to Certain District Rules**

In the event the St. Johns River Water Management District adopts a Phase I Moderate Water Shortage Plan as set forth in Rule 40C-21.621, *Florida Administrative Code*, it shall prevail over any less stringent restrictions in effect under this article. Additionally, all District restriction on surface water withdrawals shall be enforced as authorized by law in the City.  
(Ord. No. 2002-03; § 8, 4-18-2002)

### **3.05.09 Exemptions**

- A. Exemption stickers shall be applied for and issued by the City Administrator

for water-to air heating and air-conditioning systems and reuse or reclaimed water systems and shall be displayed in a conspicuous location easily viewed by enforcement personnel. The exemption sticker shall be of design; color and placement location designated by the VWA.

- B. Agricultural uses are exempt from the provisions of this article, as long as they follow the agricultural water conservation requirements of the District.
- C. Use of water for construction purposes is exempt from the provisions for this article.
- D. Watering of clay or clay type recreational courts is exempt from the base water conservation and use provisions.
- E. Low-volume hand watering and other forms of low-volume irrigation are permitted anytime, but avoidance of hours of high evaporation is encouraged.  
(Ord. No. 2002-03; § 9, 4-18-2002)

### **ARTICLE 3 A<sup>5</sup>**

#### **FLOODPLAINS**

##### **3.06.00 FLOODPLAINS - GENERAL**

##### **3.06.01 Recitals (Whereas Clauses, Ordinance Number 2013-02)**

WHEREAS, the Legislature of the State of Florida has, in Chapter 166-Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Lake Helen and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the City of Lake Helen was accepted for participation in the National Flood Insurance Program on May, 19, 2005 and the City Commission

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<sup>5</sup> (Ord. No. 2013-02; 12-12-2013)

desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

WHEREAS, section 553.73(5), Florida Statutes, allows adoption of local administrative amendments to the *Florida Building Code* to implement the National Flood Insurance Program; and

WHEREAS, the City Commission has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code*.

**3.07.00 ADMINISTRATION**

**3.07.01.00 General**

**3.07.01.01 Title**

These regulations shall be known as the *Floodplain Management Ordinance* of the City of Lake Helen, hereinafter referred to as “this ordinance.”

**3.07.01.02 Scope**

The provisions of this ordinance shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

**3.07.01.03 Intent.**

The purposes of this ordinance and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- A. Minimize unnecessary disruption of commerce, access and public service during times of flooding;

- B. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- E. Minimize damage to public and private facilities and utilities;
- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- G. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- H. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

**3.07.01.04**     **Coordination with the *Florida Building Code***

This ordinance is intended to be administered-and-enforced in conjunction with the *Florida Building Code*. Where cited ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

**3.07.01.05**     **Warning**

The degree of flood protection required by this ordinance and the *Florida Building Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this ordinance.

### **3.07.01.06 Disclaimer of Liability**

This ordinance shall not create liability on the part of the City Commission of the City of Lake Helen or by any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

### **3.07.02.00 Applicability**

#### **3.07.02.01 General**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

#### **3.07.02.02 Areas to which this ordinance applies**

This ordinance shall apply to all flood hazard areas within the City of Lake Helen, as established in Section 3.07.02.03.00 of this ordinance.

#### **3.07.02.03.00 Basis for establishing flood hazard areas**

The Flood Insurance Study for Volusia County, Florida and Incorporated Areas dated February 19, 2014, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this ordinance and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Building & Zoning Office in the Kelly Administration Building, 123 W. Indiana Avenue, Deland, Florida.

#### **3.07.02.03.01 Submission of additional data to establish flood hazard areas**

To establish flood hazard areas and base flood elevations, pursuant to Section 3.07.05.00 of this ordinance the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

- A. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this ordinance and, as applicable, the requirements of the *Florida Building Code*.
- B. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

#### **3.07.02.04 Other laws**

The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

#### **3.07.02.05 Abrogation and greater restrictions**

This ordinance supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this ordinance and any other ordinance, the more restrictive shall govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.

#### **3.07.02.06 Interpretation**

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

#### **3.07.03.00 Duties and Powers of the Floodplain Administrator**

##### **3.07.03.01 Designation**

The City Administrator is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

##### **3.07.03.02 General**

The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this ordinance. The Floodplain Administrator shall have the authority to render interpretations of this ordinance consistent with the intent and purpose of this ordinance and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this ordinance without the granting of a variance pursuant to Section 3.07.07.00 of this ordinance.

### **3.07.03.03 Applications and permits**

The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

- A. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- B. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this ordinance;
- C. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- D. Provide available flood elevation and flood hazard information;
- E. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- F. Review applications to determine whether proposed development will be reasonably safe from flooding;
- G. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this ordinance is demonstrated, or disapprove the same in the event of noncompliance; and
- H. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this ordinance.

### **3.07.03.04 Substantial improvement and substantial damage determinations**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- A. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be

the market value before the damage occurred and before any repairs are made;

- B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- C. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this ordinance is required.

**3.07.03.05 Modifications of the strict application of the requirements of the *Florida Building Code***

The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 3.07.07.00 of this ordinance.

**3.07.03.06 Notices and orders**

The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this ordinance.

**3.07.03.07 Inspections**

The Floodplain Administrator shall make the required inspections as specified in Section 3.07.06.00 of this ordinance for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

**3.07.03.08 Other duties of the Floodplain Administrator**

The Floodplain Administrator shall have other duties, including but not limited to:

- A. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 3.07.03.04 of this ordinance;



- B. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
- C. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
- D. Review required design certifications and documentation of elevations specified by this ordinance and the *Florida Building Code* and this ordinance to determine that such certifications and documentations are complete; and
- E. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Lake Helen are modified.

#### **3.07.03.09 Floodplain management records**

Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the City of Lake Helen City Hall.

#### **3.07.04.00 Permits**

##### **3.07.04.01 Permits required**

Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this ordinance, including buildings, structures and facilities exempt from the *Florida Building Code*, which

is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this ordinance and all other applicable codes and regulations has been satisfied.

#### **3.07.04.02.00 Floodplain development permits or approvals**

Floodplain development permits or approvals shall be issued pursuant to this ordinance for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

#### **3.07.04.02.01 Buildings, structures and facilities exempt from the *Florida Building Code***

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of this ordinance:

- A. Railroads and ancillary facilities associated with the railroad.
- B. Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- C. Temporary buildings or sheds used exclusively for construction purposes.
- D. Mobile or modular structures used as temporary offices.
- E. Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- F. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term “chickee” means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- G. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

- H. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- I. Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

#### **3.07.04.03 Application for a permit or approval**

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

- A. Identify and describe the development to be covered by the permit or approval.
- B. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- C. Indicate the use and occupancy for which the proposed development is intended.
- D. Be accompanied by a site plan or construction documents as specified in Section 3.07.05.00 of this ordinance.
- E. State the valuation of the proposed work.
- F. Be signed by the applicant or the applicant's authorized agent.
- G. Give such other data and information as required by the Floodplain Administrator.

#### **3.07.04.04 Validity of permit or approval**

The issuance of a floodplain development permit or approval pursuant to this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance, the *Florida Building Codes*, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

#### **3.07.04.05 Expiration**

A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if

the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

**3.07.04.06 Suspension or revocation**

The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this ordinance or any other ordinance, regulation or requirement of this community.

**3.07.04.07 Other permits required**

Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- A. The St. Johns River Water Management District; section 373.036, F.S.
- B. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- C. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- D. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- E. Federal permits and approvals.

**3.07.05.00 Site Plans and Construction Documents**

**3.07.05.01 Information for development in flood hazard areas**

The site plan or construction documents for any development subject to the requirements of this ordinance shall be drawn to scale and shall include, as applicable to the proposed development:

- A. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- B. Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 3.07.05.02 B. or C. of this ordinance.

- C. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 3.07.05.02 A. of this ordinance.
- D. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
- E. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- F. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- G. Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this ordinance but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this ordinance.

**3.07.05.02 Information in flood hazard areas without base flood elevations (approximate Zone A)**

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

- A. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- B. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
- C. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
  2. Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
- D. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

### **3.07.05.03 Additional analyses and certifications**

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- A. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 3.07.05.04 of this ordinance and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- B. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's

flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 3.07.05.04 of this ordinance.

#### **3.07.05.04 Submission of additional data**

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

#### **3.07.06.00 Inspections**

##### **3.07.06.01.00 General**

Development for which a floodplain development permit or approval is required shall be subject to inspection.

##### **3.07.06.01.01 Development other than buildings and structures**

The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

##### **3.07.06.01.02 Buildings, structures and facilities exempt from the *Florida Building Code***

The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

#### **A. Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.**

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator:

1. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

2. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with 3.07.05.02 C. 2. of this ordinance, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

**B. Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection.**

As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 3.07.06.01.02 A. of this ordinance.

**3.07.06.01.03 Manufactured homes**

The Building Official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this ordinance and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Building Official.

**3.07.07.00 Variances and Appeals**

**3.07.07.01 General**

The City Commission, or its duly designated board, shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to section 553.73(5), F.S., the City Commission, or its duly designated board, shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*.

**3.07.07.02 Appeals**

The City Commission, or its duly designated board, shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this ordinance. Any person aggrieved by the decision of City Commission, or its duly designated board, may appeal such decision to the Circuit Court, as provided by Florida Statutes.

**3.07.07.03.00 Limitations on authority to grant variances**

The City Commission, or its duly designated board, shall base its decisions on variances on technical justifications submitted by applicants, the considerations for



issuance in Section 3.07.07.06 of this ordinance, the conditions of issuance set forth in Section 3.07.07.07 of this ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The City Commission, or its duly designated board, has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

#### **3.07.07.03.01 Restrictions in floodways**

A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 3.07.05.03 of this ordinance.

#### **3.07.07.04 Historic buildings**

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code*, Existing Building, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

#### **3.07.07.05 Functionally dependent uses**

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this ordinance, provided the variance meets the requirements of 3.07.07.03.01, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

#### **3.07.07.06 Considerations for issuance of variances**

In reviewing requests for variances, the City Commission, or its duly designated board, shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this ordinance, and the following:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- B. The danger to life and property due to flooding or erosion damage;

- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- D. The importance of the services provided by the proposed development to the community;
- E. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- F. The compatibility of the proposed development with existing and anticipated development;
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- H. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- I. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- J. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

**3.07.07.07 Conditions for issuance of variances**

Variations shall be issued only upon:

- A. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this ordinance or the required elevation standards;
- B. Determination by the City Commission, or its duly designated board, that:
  - 1. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - 2. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

3. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- C. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
  - D. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

### **3.07.08.00 VIOLATIONS**

#### **3.07.08.01 Violations<sup>6</sup>**

Any development that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this ordinance or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

#### **3.07.08.02 Authority**

For development that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

#### **3.07.08.03 Unlawful continuance**

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to

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<sup>6</sup> **Cross-reference** - Article 1 General Provisions, Section 1.11.02 General Penalty

perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

### **3.08.00.00 DEFINITIONS**

#### **3.08.01.00 General**

##### **3.08.01.01 Scope**

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this ordinance, have the meanings shown in this section.

##### **3.08.01.02 Terms defined in the *Florida Building Code***

Where terms are not defined in this ordinance and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

##### **3.08.01.03 Terms not defined**

Where terms are not defined in this ordinance or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

#### **3.08.02.00 Definitions**

**Alteration of a watercourse.** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Appeal.** A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

**ASCE 24.** A standard titled Flood Resistant Design and Construction that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

**Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

**Base flood elevation.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 1612.2.]

**Basement.** The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 1612.2.]

**Design flood.** The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Design flood elevation.** The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 1612.2.]

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

**Encroachment.** The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**Existing building and existing structure.** Any buildings and structures for which the "start of construction" commenced before March, 18 2004. [Also defined in FBC, B, Section 1612.2.]

**Existing Manufactured Home Park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before March, 18 2004.

**Expansion to an existing manufactured home park or subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Federal Emergency Management Agency (FEMA).** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

**Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 1612.2.]

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood damage-resistant materials.** Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 1612.2.]

**Flood hazard area.** The greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Flood Insurance Rate Map (FIRM).** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]

**Flood Insurance Study (FIS).** The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 1612.2.]

**Floodplain Administrator.** The office or position designated and charged with the administration and enforcement of this ordinance (may be referred to as the Floodplain Manager).

**Floodplain development permit or approval.** An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this ordinance.

**Floodway.** The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 1612.2.]

**Floodway encroachment analysis.** An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

**Florida Building Code.** The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building*; *Florida Building Code, Residential*; *Florida Building Code, Existing Building*; *Florida Building Code, Mechanical*; *Florida Building Code, Plumbing*; *Florida Building Code, Fuel Gas*.

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

**Historic structure.** Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings.

**Letter of Map Change (LOMC).** An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been

permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**Light-duty truck.** As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

**Lowest floor.** The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

**Manufactured home.** A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 1SC-1.0101, F.A.C.]

**Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market value.** The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified



independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

**New construction.** For the purposes of administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after March 18, 2004 and includes any subsequent improvements to such structures .

**New manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after March 18, 2004.

**Park trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

**Recreational vehicle.** A vehicle, including a park trailer, which is: [see in section 320.01, F.S.)

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Special flood hazard area.** An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]

**Start of construction.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

**Substantial damage.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

**Substantial improvement.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions .
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure. [See Instructions and Notes]

**Variance.** A grant of relief from the requirements of this ordinance, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this ordinance or the *Florida Building Code*.

**Watercourse.** A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

**3.09.00.00 FLOOD RESISTANT DEVELOPMENT**

**3.09.01.00 Buildings and Structures**

**3.09.01.01 Design and construction of buildings, structures and facilities exempt from the *Florida Building Code***

Pursuant to Section 3.07.06.01.02 of this ordinance, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 3.09.07.00 of this ordinance.

### **3.09.02.00 Subdivisions**

#### **3.09.02.01 Minimum requirements**

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

#### **3.09.02.02 Subdivision plats**

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- A. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
- B. Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 3.07.05.02 A. of this ordinance; and
- C. Compliance with the site improvement and utilities requirements of Section 3.09.03.00 of this ordinance.

### **3.09.03.00 Site Improvements, Utilities and Limitations**

#### **3.09.03.01 Minimum requirements**

All proposed new development shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

**3.09.03.02 Sanitary sewage facilities**

All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

**3.09.03.03 Water supply facilities**

All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

**3.09.03.04 Limitations on sites in regulatory floodways**

No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 3.07.05.03 A. of this ordinance demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

**3.09.03.05 Limitations on placement of fill**

Subject to the limitations of this ordinance, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the *Florida Building Code*.

**3.09.04.00 Manufactured Homes**

#### **3.09.04.01 General**

All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this ordinance.

#### **3.09.04.02 Foundations**

All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the *Florida Building Code Residential Section R322.2* and this ordinance.

#### **3.09.04.03 Anchoring**

All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

#### **3.09.04.04.00 Elevation**

Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 3.09.04.04.01 or 3.09.04.04.02 of this ordinance, as applicable.

##### **3.09.04.04.01 General elevation requirement**

Unless subject to the requirements of Section 3.09.04.04.02 of this ordinance, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential Section R322.2 (Zone A)*.

##### **3.09.04.04.02 Elevation requirement for certain existing manufactured home parks and subdivisions**

Manufactured homes that are not subject to Section 3.09.04.04.01 of this ordinance, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a

site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

- A. Bottom of the frame of the manufactured home is at or above the elevation required in the *Florida Building Code*, Residential Section R322.2 (Zone A); or
- B. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

**3.09.04.05 Enclosures**

Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code*, Residential Section R322 for such enclosed areas.

**3.09.04.06 Utility equipment**

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the *Florida Building Code*, Residential Section R322.

**3.09.05.00 Recreational Vehicles and Park Trailers**

**3.09.05.01 Temporary placement**

Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

- A. Be on the site for fewer than 180 consecutive days; or
- B. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

**3.09.05.02 Permanent placement**

Recreational vehicles and park trailers that do not meet the limitations in Section 3.09.05.01 of this ordinance for temporary placement shall meet the requirements of Section 3.09.04.00 of this ordinance for manufactured homes.

**3.09.06.00 Tanks**

**3.09.06.01 Underground tanks**

Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

**3.09.06.02 Above-ground tanks, not elevated**

Above-ground tanks that do not meet the elevation requirements of Section 3.09.06.03 of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

**3.09.06.03 Above-ground tanks, elevated**

Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

**3.09.06.04 Tank inlets and vents**

Tank inlets, fill openings, outlets and vents shall be:

- A. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- B. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

**3.09.07.00 Other Development**

**3.09.07.01 General requirements for other development**

All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the *Florida Building Code*, shall:

- A. Be located and constructed to minimize flood damage;
- B. Meet the limitations of Section 3.09.03.04 of this ordinance if located in a regulated floodway;

- C. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- D. Be constructed of flood damage-resistant materials; and
- E. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

**3.09.07.02 Fences in regulated floodways**

Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 3.09.03.04 of this ordinance.

**3.09.07.03 Retaining walls, sidewalks and driveways in regulated floodways**

Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 3.09.03.04 of this ordinance.

**3.09.07.04 Roads and watercourse crossings in regulated floodways**

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 3.09.03.04 of this ordinance. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 3.07.05.03 C. of this ordinance.

**3.10.00 ADMINISTRATIVE AMENDMENTS TO THE *FLORIDA BUILDING CODE*, BUILDING**

The *Florida Building Code, Building*, is hereby amended by the following administrative amendments:

- A. Modifications of the strict application of the requirements of the *Florida Building Code (Florida Building Code, Building, Section 104.10.1)*. The Building Official shall coordinate with the Floodplain Administrator to review requests submitted to the Building Official that seek approval to modify the strict application of the flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 3.10.00 D..



- B. Building permits issued on the basis of an affidavit (*Florida Building Code, Building, Section 107.6.1*). Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Section 3.07.05.00 and Section 3.07.07.07, shall not extend to the flood load and flood resistance construction requirements of the *Florida Building Code*.
- C. Variances in flood hazard areas (*Florida Building Code, Building, Section 117*). Pursuant to section 553 .73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the *Florida Building Code, Building* or, as applicable, the provisions of R322 of the *Florida Building Code, Residential*. This section shall not apply to Section 3109 of the Florida Building Code, Building.

### **3.11.00 FISCAL IMPACT STATEMENT**

In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

### **3.12.00 APPLICABILITY**

For the purposes of jurisdictional applicability, this ordinance shall apply in the City of Lake Helen. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after December 12, 2013.