

City of Lake Alfred  
120 E. Pomelo Street  
Lake Alfred, FL 33850



Phone: (863) 291-5748  
Fax: (863) 298-5403  
[www.mylakealfred.com](http://www.mylakealfred.com)

**Community Development**

Building | Code Enforcement | Planning | Zoning

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**PLANNING AND ZONING BOARD  
AGENDA**

**CITY COMMISSION CHAMBERS**

**June 8, 2023**

**6:00 P.M.**

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**Call to Order**

**Invocation and Pledge of Allegiance**

**Roll Call:** Linda Bourgeois, City Clerk

**Approval of Minutes:** May 11, 2023

**Business Items:**

1. ULDC Text Amendment: Section 7.1 Flood-Prone Areas
2. Florida Sunshine Law

**Public Comments:**

**Board Member Comments:**

**Next Meeting:**

- Regular Meeting: July 13, 2023

**Adjourn**

**PLANNING AND ZONING BOARD  
MINUTES  
CITY COMMISSION CHAMBERS  
THURSDAY, MAY 11, 2023  
6:00 P.M.**

**Chair Fountain** called the Planning and Zoning Board to order at 6:00 p.m. in the City Hall Chambers located at 120 E. Pomelo Street, Lake Alfred, Florida.

**Chair Fountain** provided the invocation followed by the Pledge of Allegiance.

**Board Members in Attendance:** Chair Ike Fountain, Vice-Chair Brenda Arnold, Board Member Herb Nigg, Board Member Ron Pestone, Board Member Scott Gearhart, Board Member Bancroft Fisher, Alternate Board Member John Reinert (6:07 PM), and Alternate Member Cathy Long. A quorum was present.

**Board Members Absent:** Board Member Wanda Daley.

**Staff:** Community Development Director Amee Bailey, City Attorney Seth Claytor, City Clerk Linda Bourgeois, and City Planner Erika Tulloch.

**Chair Fountain** presented the minutes from April 13, 2023, Planning and Zoning Board meeting for approval.

**Board Member Pestone** made a motion to approve the meeting minutes for April 13, 2023. The motion was seconded by **Vice Chair Arnold**. The motion was unanimously approved.

**City Attorney Claytor** reviewed the meeting procedures, swore in the staff and audience members providing testimony, and asked if there was a need for an interpreter. There was no need for an interpreter. He reviewed the quasi-judicial requirements with the Planning and Zoning Board members.

**Board Member Pestone** thanked the city staff for the printed agenda packet.

**Chair Fountain** introduced the first item of business.

**City Planner Erika Tulloch** presented the first case. There were twenty- five mailers without any responses and the case was noticed pursuant to state law.

1.) Variance: 340 W Pierce Street

**Applicant:** Jacinto Navarro

**Request:** A request for a variance to the ten (10) feet minimum side accessory setback.

**Property Information**

Address: 340 W Pierce Street

Parcel ID: 26-27-32-513200-000020

Land Use: Residential (RES)

Zoning: Vintage Residential Neighborhood (VRN)

Variance from Section: § Section 2.1.6.C of the Unified Land Development Code (ULDC) Development Standards Table.

Variance Criteria

- Special circumstances due to peculiarity
- Not an action from the applicant
- No special privilege
- Common rights
- Minimum variance required
- Harmonious intent

According to Table 2.1.6.C of the ULDC, the side setback for accessory structures in the Vintage Residential Neighborhood (VRN) district is a minimum of 10 feet from the property line. The permit application was denied for not meeting the required setback.

After being informed by the City of the non-compliance, the applicant mentioned that he attempted to rectify the problem but had a great challenge removing the shed to a setback of ten feet (10') as the equipment used for the removal process was getting stuck.

On December 27, 2022, on a site visit conducted by the Code Enforcement officer, it was revealed that the shed was moved a distance of 8'9" from the fence/ property line. He was informed of the variance process for which he later applied in March 2023. Thus, the applicant is hereby requesting a variance to the ten feet (10') rear setback.

Sec. 9.9.3.D states that a variance shall not be granted unless the appropriate reviewing board/official affirmatively finds that each of the following criteria listed above has been met.

The board discussed the following:

- There is a fence line so the neighbors would not see the 18x12 shed.
- The shed has been on the site since 2014.
- There were other code violations on the property when the shed violation was discovered.

Property Owner **Jacinto Navarro** spoke and said he had purchased the shed from Sheds for Less who was paid to pull a permit prior to installation. The company told him the setback requirements were five feet and he had just signed the paperwork. He said it cost him \$10,000. He continued and shared his experience about attempting to move the shed, once he was found in violation, by renting a skid steer and using pipes underneath it to move it. The pipes kept sinking in the sand and he moved it the best he could.

**Alternate Board Member Reinert** asked why it took so long to find the shed in violation and Community Development Director Bailey shared with the Planning and Zoning about how the Code Enforcement process worked. She said the City has been working with the applicant for a while now.

**City Attorney Claytor** shared that the Code Enforcement violations are typically complaint-driven

and said the Code Enforcement action(s) and/or violations are not relevant or germane to whether or not the variance should be approved or denied.

**Board Member Nigg** asked if the applicant would have to do anything else with the shed if the Planning and Zoning Board voted for approval.

**Community Development Director Bailey** said that, in the event the variance is approved, the permit would be approved, the inspections would occur, and then the process would be completed.

**City Planner Tulloch** read the variance conditions into the record.

Conditions:

1. The variance shall only apply to the shed at 340 W Pierce Street.
2. That the applicant be permitted to allow the installation of a shed with a minimum side accessory setback of 8.5’.
3. That the applicant be permitted to allow the installation of a shed not measuring more than 216 sqft (18’ x 12’).
4. The shed may not be modified without an additional permit(s).
5. The shed shall meet all other requirements of the Lake Alfred Unified Land Development Code.
6. That the approval of this variance request shall not constitute a variance or additional waiver from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the ULDC.
7. The applicant shall apply for, receive, and finalize all necessary City of Lake Alfred building permits for this shed by May 11, 2024, or this approval shall be voided.

**Chair Fountain** opened the floor to public comments and seeing no one, he closed the floor to public comments.

**Alternate Board Member Reinert** moved to grant the variance request by the applicant with conditions of approval, after hearing competent substantial evidence that meets all the variance criteria as set forth; and I hereby authorize the Chairman to sign a Development Order to be recorded in Polk County Public Records. The motion was seconded by **Board Member Pestone**. The motion was unanimously approved.

**Chair Fountain** introduced the next business item for consideration.

**City Planner Tulloch** presented the next case. There were two mailers without any responses and the case was noticed pursuant to state law.

2.) Variance: 711 Griffon Avenue

**Applicant:** John Bannon on behalf of JMBI Development LLC

**Request:** A request for a variance to the minimum fifteen feet (15’) side street principal setback.

**Property Information**

Address: 711 Griffon Avenue  
Parcel ID: 262719-489375-003120  
Land Use: Residential (RES)  
Zoning: Vintage Residential Neighborhood (VRN)  
Variance from Section: **§ Section 2.1.6.C** of the Unified Land Development Code (ULDC) Development Standards Table.

#### Variance Criteria

- Special circumstances due to peculiarity
- Not an action from the applicant
- No special privilege
- Common rights
- Minimum variance required
- Harmonious intent

The applicant sought confirmation from City staff in October 2022 about the setback requirement for the lot. They were informed that 711 Griffon Avenue (lot 312) will be treated as a corner lot and therefore will need to meet the side street principal setback of fifteen feet (15'). On April 11, 2023, the applicant submitted a variance application to reduce the minimum side-street setback from fifteen feet (15') to thirteen point four feet (13.4'). No permit application has been submitted for review.

**John Bannon**, the applicant on behalf of JMBl Development, LLC., said the variance allows for the builder to maintain the forty-foot-wide footprint. He said they were okay with the staff conditions and that this was a unique situation. He explained that this was a misunderstanding on his part, referencing the side setbacks for public versus private roads.

**Community Development Director Bailey** explained the Unified Land Development Code did not differentiate between the two types and said this was a minimum variance request.

**Alternate Board Member Reinert** suggested they consider building the house at an angle.

A discussion ensued and it was shared that there would be a utility easement issue, that they would not want a driveway on the main road, and that was not the applicant's request. Further discussion surrounded the fact that there were no other variances needed for this lot and properties, in general, could have multiple variances requested.

**Chair Fountain** opened the floor to public comments.

**Jerry Rodriguez**, the builder, agreed and said there would not be any more requested variances. He requested consideration of the Planning and Zoning Board to extend the one-year building permit requirement to two years.

**Chair Fountain** closed the floor to public comments.

A discussion ensued regarding the conditions as specified in the ULDC and that the code required the residential building permit to be pulled for construction.

**City Planner Tulloch** read the conditions of approval into the record.

Conditions:

1. The variance shall only apply to the property at 711 Griffon Avenue.
2. That the applicant be permitted to construct a new residential structure with a side street setback of 13.4 feet from Airedale Way.
3. The new residential structure shall meet all other requirements of the Lake Alfred Unified Land Development Code.
4. ~~No additional variance(s) be granted for future accessory structures that do not meet the required side street accessory setbacks as outlined by the ULDC.~~
5. No primary or accessory structure shall be located on or across the ten-foot (10') utility easement on the lot along Airedale Way.
6. That the approval of this variance request shall not constitute a variance or additional waiver from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the ULDC.
7. The applicant shall apply for, receive, and finalize all necessary City of Lake Alfred building permits for this residential structure by May 11, 2024, or this approval shall be voided.

The Planning and Zoning Board discussed condition number four which would limit any future accessory structures.

**Alternate Board Member Reinert** asked for the definition of accessory structures and Community Development Director Bailey read the definition of the ULDC into the record.

**Alternate Board Member Reinert** made a motion to remove condition number four from the conditions. The motion was seconded by **Board Member Nigg**. The motion was unanimously approved.

**Board Member Gearhart** moved to grant the variance request by the applicant with conditions of approval, after hearing competent substantial evidence that meets all the variance criteria as set forth; and I hereby authorize the Chairman to sign a Development Order to be recorded in Polk County Public Records. The motion was seconded by **Board Member Nigg**. The motion was unanimously approved.

**Chair Fountain** introduced the next business item for consideration.

**Community Development Director Bailey** presented the case. There were two mailers without any responses and the case was noticed pursuant to state law.

3.) Variance: 715 Griffon Avenue

**Applicant:** John Bannon on behalf of JMBI Development LLC  
**Request:** A request for a variance to the minimum fifteen feet (15') side street principal setback.

**Property Information**

Address: 715 Griffon Avenue  
Parcel ID: 262719-489375-003120  
Land Use: Residential (RES)  
Zoning: Vintage Residential Neighborhood (VRN)  
Variance from Section: **§ Section 2.1.6.C** of the Unified Land Development Code (ULDC) Development Standards Table.

Variance Criteria

- Special circumstances due to peculiarity
- Not an action from the applicant
- No special privilege
- Common rights
- Minimum variance required
- Harmonious intent

The applicant sought confirmation from City staff in October 2022 about the setback requirement for the lot. They were informed that 715 Griffon Avenue (lot 311) will be treated as a corner lot and therefore will need to meet the side street principal setback of fifteen feet (15'). On April 11, 2023, the applicant submitted a Variance application to reduce the minimum side-street setback from fifteen feet (15') to fourteen point two feet (14.2'). No permit application has been submitted for review.

If approved by the Planning and Zoning Board, the staff is recommending the following conditions:

1. The variance shall only apply to the property at 715 Griffon Avenue.
2. That the applicant be permitted to construct a new residential structure with a side street setback of 14.2 feet from Airedale Way.
3. The new residential structure shall meet all other requirements of the Lake Alfred Unified Land Development Code.
4. ~~No additional variance(s) be granted for future accessory structures that do not meet the required side street accessory setbacks as outlined by the ULDC.~~
5. No primary or accessory structure shall be located on or across the ten-foot (10') utility easement on the lot along Airedale Way.
6. That the approval of this variance request shall not constitute a variance or additional waiver from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the ULDC.

7. The applicant shall apply for, receive and finalize all necessary City of Lake Alfred building permits for this residential structure by May 11, 2024, or this approval shall be voided.

**Alternate Board Member Reinert** made a motion to remove condition number four from the conditions. The motion was seconded by **Board Member Nigg**. The motion was unanimously approved.

**Board Member Nigg** moved to grant the variance request by the applicant with conditions of approval, after hearing competent substantial evidence that meets all the variance criteria as set forth; and I hereby authorize the Chairman to sign a Development Order to be recorded in Polk County Public Records. The motion was seconded by **Vice Chair Arnold**. The motion was unanimously approved.

#### **Board Member Comments:**

**Alternate Board Member Reinert** spoke about how close the homes were in Eden Hills saying there were only ten feet from foundation to foundation.

A discussion ensued regarding the current setback requirements, new legislation that will impact Master Planned Communities, and the city's ULDC is designed to provide a variety of development standards to serve a diverse population.

**Board Member Nigg** asked if this development was in the Green Swamp Area of Critical State Concern and it was shared that it was.

**Board Member Long** shared her disappointment with the last few meetings and encouraged the Planning and Zoning Board Members to treat everyone with respect.

A discussion ensued about changing the development standards regarding lot sizes, the Planning and Zoning Board is a recommendatory board, and the City Commission has the final authority on setting the standards through City's policy.

**Board Member Pestone** asked if the Planning and Zoning Board would get to review the developments coming into the City.

**Community Development Director Bailey** said it depends on what level of review the development required. She provided examples of situations where the developments may come before the Planning and Zoning Board and others where it would not be appropriate for the board review based upon the Unified Land Development Code requirements.

**Board Member Pestone** spoke about people buying in developments that don't allow for on-street parking and said they may not know that they can't park on the street when they purchase the home. This is a quality-of-life issue.

A discussion ensued about the choices of roadway widths during the development process, the Home Owners Associations (HOA) being the enforcement agency, and the smaller lots being more economical for affordability.

**Chair Fountain** asked for an update on the Quite Zone research.



**City Attorney Claytor** shared he had reached out to the City of Winter Haven and they shared it was a very difficult and onerous process. They have been working on it for a long time.

**Alternate Board Member Reinert** asked about continuing to review the Planning and Zoning Board's by-laws. He mentioned some areas such as board composition, board absences, and vacancies.

**Board Member Pestone** suggested a workshop to discuss the by-laws in detail.

After a brief discussion, it was agreed that the Community Development Department would email the by-laws back out to the Planning and Zoning Board for recommendations to be sent to the director.

The next Planning and Zoning Board meeting is scheduled for June 8, 2023.

Without any further business, the Planning and Zoning Board meeting was adjourned at 7:43 PM.

Respectfully submitted,

Linda Bourgeois, BAS, MMC, ADAC  
City Clerk

## **Business Item No. 1. ULDC Text Amendment: Section 7.1 Flood Prone Areas**

**ISSUE:** The Planning Board will consider text amendments to the Unified Land Development Code (ULDC).

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There are two general types of Plan Amendments: text amendments and map amendments. The Board shall review and provide recommendations to the City Commission on proposed ULDC Amendments. The Board shall specifically consider and evaluate the proposed amendments against the following standards.

### **Consistency with comprehensive plan.**

1. The proposed amendment is consistent with the goals, objectives and policies of the City of Lake Alfred Comprehensive Plan; or
2. The proposed amendment proposes goals, objectives and policies that shall be consistent with the City of Lake Alfred Comprehensive Plan.

### **Concurrency analysis.**

1. The proposed amendment shall not degrade the Level of Service of one or more public facilities and services as identified in Article 8, and does not increase the cost of improvements to be undertaken by the City as stated in the Capital Improvements Element of the Comprehensive Plan; or
2. The proposed amendment contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, and identifies the timing of the improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.

### **Context compatibility.**

1. The proposed amendment shall not have any adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibilities and the general welfare of the City;
2. The proposed amendment contains commitments to make improvements to mitigate the adverse impacts; or
3. The proposed amendment contains goals, objectives and policies to mitigate or eliminate adverse impacts.

### **Community needs analysis.**

1. The proposed amendment shall benefit the community and shall not result in a detrimental concentration of a particular use within the City or within the immediate area; or
2. The proposed amendment contains sufficient support and/or proof that the proposed amendment supplants the analysis that supported the establishment of the existing goals, objectives, policies, or maps.

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## Lake Alfred Planning and Zoning Board Staff Report

**Applicants:** City of Lake Alfred

**Request:** A City-initiated request to update the City's Unified Land Development Code (ULDC) in regards to floodplain regulations.

### Hearing Dates

June 8, 2023	Planning and Zoning Board
July 10, 2023	City Commission-Transmittal Hearing
45 days	State Coordinated Review
September, 2023	City Commission-Adoption Hearing

### OVERVIEW:

The City of Lake Alfred participates in the National Flood Insurance Program and participates in the NFIP's Community Rating System (CRS), a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements. The Community Rating System (CRS) rewards communities who provide flood protection above the minimum required. As part of the CRS, communities must recertify that they meet the program guidelines every year and must renew their status in the program every five years. The CRS rates communities on a 10 point scale (10 - Non-participating to 1 - Excellent) and provides discounted flood insurance to the community's citizens based on that rating.

The City of Lake Alfred was initiated into the program May of 2018 as a Class "7", however after further review the classification was improved to a Class 6", effective May 2019. This rating provides a 20% discount on flood insurance premiums for citizens in the City of Lake Alfred.

As part of the 5-year review cycle, the Florida Department of Emergency Management (FDEM) evaluated the City's current floodplain ordinances providing recommendations on updates due to NFIP changes, changes the Florida Building Code, and recommendations for enhanced floodplain protections. In addition, this is the first review since the City adopted the new and restated Unified Land Development Code in 2021.

## **TEXT AMENDMENTS**

Text amendments to the Unified Land Development Code (ULDC) are based on the review by FDEM and staff experience with the 2021 ULDC. The areas to be updated include the Section 7.1 Development in the Flood-Prone Areas, Section 7.5 Upland Buffers, and Section 2.3.3 Green Swamp Overlay District. Revisions are design to better align with the current policies and to provide consistency.

The NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better. To satisfy the prerequisite and for the City of Lake Alfred to maintain the current CRS rating, all manufactured homes installed or replaced in special flood hazard areas must be elevated to or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements. In addition, FDEM suggested regulations that are consistent with the FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures, to allow issuance of permits for non-elevated wet floodproofed accessory structures that are not larger than the sizes specified in the FEMA Policy

Other minor changes are proposed:

- Relocation of cross reference to the Green Swamp Overlay District polies.
- Removal of buffer on floodplains.
- Allocation of tasks to Building Official.
- Addition and modification of definitions.
- Added development standards for critical infrastructure.
- Formatting, reference updates, and spelling corrections.

and Wastewater demand tables will include the new LOS demand levels established.

## **STAFF RECOMMENDATION:**

Staff has based the proposed amendment on the requirements in the NFIP and recommendations from recent policy applications. Staff finds that the proposed Unified Land Development Code text amendment are **CONSISTENT** with the City of Lake Alfred's Comprehensive Plan and recommends **APPROVAL** to the City Commission of the City-initiated text amendments.

Amendments, as shown in ~~strikethrough~~ and underline format.

## Sec. 7.1. Development in Flood-Prone Areas

### Sec. 7.1.1. Administration

- A. **Title.** These regulations shall be known as the Floodplain Management Regulations of the City of Lake Alfred, hereinafter referred to as “these regulations”.
- B. **Scope.** The provisions of these regulations 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; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development. ~~This section excludes For those areas within the Green Swamp Area of Critical State Concern (GSACSC). For regulations regarding development in the floodplains in the GSACSC, refer to Section 2.3.3. Green Swamp Overlay District.~~
- C. **Intent.** The purpose of these regulations 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:
1. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
  2. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
  3. 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;
  4. 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;
  5. Minimize damage to public and private facilities and utilities;
  6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
  7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
  8. 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.
- D. **Coordination with the Florida Building Code.** These regulations are 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.

- E. **Warning.** The degree of flood protection required by these regulations 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. These regulations do 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 these regulations.
- F. **Disclaimer of Liability.** These regulations shall not create liability on the part of the City of Lake Alfred or by any officer or employee thereof for any flood damage that results from reliance on these regulations or any administrative decision lawfully made there under.

#### Sec. 7.1.2. Applicability

- A. **General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- B. **Areas to Which these Regulations Apply.** ~~This ordinance~~ These regulations shall apply to all flood hazard areas within the City of Lake Alfred, as established in this section.

~~**Exception.** This section excludes those areas within the Green Swamp Area of Critical State Concern (GSACSC). For regulations regarding development in the floodplains in the GSACSC, refer to Section 2.3.3. Green Swamp Overlay District.~~

- C. **Basis for Establishing Flood Hazard Areas.** The Flood Insurance Study for Polk County, Florida and Incorporated Areas dated December 22, 2016 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 part of these regulations 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 City of Lake Alfred.
- D. **Additional Data to Establish Flood Hazard Areas**  
To establish flood hazard areas and base flood elevations, pursuant to Section 7.1.5 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:
1. 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 these regulations and, as applicable, the requirements of the Florida Building Code.
  2. 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.

- E. **Other Laws.** The provisions of these regulations shall not be deemed to nullify any provisions of local, state, or federal law.
- F. **Abrogation and Greater Restrictions.**
1. These regulations supersede any ordinance or regulations in effect for management of development in flood hazard areas.
  2. 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 these regulations and any other ordinance or regulations, the more restrictive shall govern.
  3. For those areas within the Green Swamp Area of Critical State Concern (GSACSC) regulations regarding development in the floodplains are provided in Section 2.3.3. Green Swamp Overlay District. The Overlay District provides specific development criteria and may be more restrictive. In cases where conflicting standards are given by an overlay district and these regulations, the more restrictive standard will take priority.
  4. These regulations shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by these regulations.
- G. **Interpretation.** In the interpretation and application of these regulations, all provisions shall be:
1. Considered as minimum requirements;
  2. Liberally construed in favor of the governing body; and
  3. Deemed neither to limit nor appeal any other powers granted under state statutes.

### Sec. 7.1.3. Duties and Powers of the Floodplain Administrator

- A. **Designation.** The City Manager or his/her Designee is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.
- B. **General.** The Floodplain Administrator is authorized and directed to administer and enforce the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations 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 these regulations without the granting of a variance pursuant to Section 7.1.7. of these regulations.
- C. **Application and Permits.** The Floodplain Administrator, in coordination with other pertinent offices of the community shall:
1. Review applications and plans to determine whether proposed new development is in flood hazard areas;
  2. Review applications for modification of any existing development in flood hazard

- areas for compliance with the requirements of these regulations;
3. 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;
  4. Provide available flood elevation and flood hazard information;
    5. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
    6. Review applications to determine whether proposed development will be reasonably safe from flooding;
  7. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code when compliance with these regulations is demonstrated, or disapprove the same in the event of noncompliance;
  8. Coordinate with and provide comments to the **Building Planning** Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of these regulations; and
  9. Serve notices of violation or stop work orders to owners of property, to the owner's agent, or to the person or persons performing work that is determined to be a violation, as authorized in Section 7.1.8.B.
- D. **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 and Planning** Official, shall:
1. 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;
  2. 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;
    3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
  4. 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 these regulations is required.
- E. **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 these regulations.
- F. **Inspections.** The Floodplain Administrator shall make the required inspections as specified in Section 7.1.6. 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.

G. **Other Duties of the Floodplain Administrator.** The Floodplain Administrator shall have other duties, including but not limited to:

1. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 7.1.3.D. of these regulations;
2. 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);
3. 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 elevation, flood hazard area boundaries, or floodway designations; such submissions shall be made within six (6) months of such data becoming available;
4. Review required design certifications specified by these regulations and the Florida Building Code to determine that such certifications are complete;
5. Review elevation documentation submitted as required by these regulations and the Florida Building Code and inform the applicant of deficiencies within five (5) working days; and
6. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Lake Alfred are modified.

H. **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 these regulations and the flood resistant construction requirements of the Florida Building Code.

1. including Flood Insurance Rate Maps; Letter of Map Change;
2. records of issuance of permits and denial of permits;
3. determinations of whether proposed work constitutes substantial improvement or repair of substantial damage;
4. required design certifications and documentation of elevations specified by the Florida Building Code and these regulations;
5. notifications to adjacent communities, FEMA, and the state related to alterations of watercourses;
6. assurances that the flood carrying capacity of altered watercourses will be maintained;
7. documentation related to appeals and variances, including justification for issuance or denial; and
8. records of enforcement actions taken pursuant to these regulations and the flood resistant construction requirements of the Florida Building Code.

These records shall be available for public inspection at the City of Lake Alfred.

#### Sec. 7.1.4. Permits

- A. **Permits Required.** Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of these regulations, 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 Planning** 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 these regulations and all other applicable codes and regulations has been satisfied.
- B. **Floodplain Development Permits or Approvals.** Floodplain development permits or approvals shall be issued pursuant to these regulations 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.
- C. **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. Section 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 these regulations:
9. Railroads and ancillary facilities associated with the railroad.
  10. Nonresidential farm buildings on farms, as provided in Section 604.50, F.S.
  11. Temporary buildings or sheds used exclusively for construction purposes.
  12. Mobile or modular structures used as temporary offices.
  13. 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.
  14. 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.
  15. 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.
  16. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
  17. 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.

- D. **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 Development Department. The information provided shall:
1. Identify and describe the development to be covered by the permit or approval.
  2. 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.
  3. Indicate the use and occupancy for which the proposed development is intended.
  4. Be accompanied by a site plan or construction documents as specified in Section 7.1.5 of these regulations.
  5. State the valuation of the proposed work.
  6. Be signed by the applicant or the applicant's authorized agent.
  7. Give such other data and information as required by the Floodplain Administrator.
- E. **Validity of Permit or Approval.** The issuance of a floodplain development permit or approval pursuant to these regulations shall not be construed to be a permit for, or approval of, any violation of these regulations, the Florida Building Code, 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.
- F. **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.
- G. **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 these regulations or any other ordinance, regulation or requirement of Lake Alfred.
- H. **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:
1. The Southwest Florida Water Management District; Section 373.036, F.S.
  2. Florida Department of Health for onsite sewage treatment and disposal systems Section 381.0065, F.S. and Chapter 64E-6, F.A.C.
  3. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; Section 161.055 F.S.
  4. Federal permits and approvals.
  5. 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.

### Sec. 7.1.5. Plans and Construction Documents

- A. **Information for Development in Flood Hazard Areas.** The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:
1. Delineation of flood hazard areas, floodway boundaries, and flood zone(s), base flood elevation(s), and ground elevations as necessary for review of the proposed development.
  2. Where base flood elevations, or floodway data are not included on the FIRM or the Flood Insurance Study, they shall be established in accordance with Section 7.1.5.B (2) or (3) of these regulations.
  3. Where the parcel on which the proposed development will take place will have more than fifty (50) lots or is larger than five (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 7.1.5.B.1 of these regulations.
  4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
  5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
  6. 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.
  7. 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 these regulations 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 these regulations.
- B. **Information in Flood Hazard Areas without Base Flood Elevations.** Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:
1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
  2. Obtain, review, and provide to applicants the 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.
  3. Where base flood elevation data 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:
    - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or



shall inspect all development to determine compliance with the requirements of these regulations and the conditions of issued floodplain development permits or approvals.

- C. **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 these regulations and the conditions of issued floodplain development permits or approvals.
1. **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:
    - a. 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
    - b. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 7.1.5.B.3.b, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

Failure to submit the certification or documentation of elevation of the lowest floor or to make required corrections indicated by the Floodplain Administrator's review of the information shall be cause to issue a stop work order for the project in accordance with Section 7.1.8.~~B~~.
  2. **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 7.1.6.C.1.~~b~~.
- D. **Manufactured Homes.** The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations 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 Floodplain Administrator.

#### Sec. 7.1.7. Variances and Appeals

- A. **General.** The Planning and Zoning Board shall hear and decide on requests for variances from the strict application of these regulations. Pursuant to Section 553.73(5), F.S., the Planning and Zoning Board shall hear and decide on requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code.
- B. **Appeals.**
1. The Development Review Special Magistrate 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 these regulations.
  2. Any person aggrieved by the decision of the Planning and Zoning Board may also appeal such decision to the Development Review Special Magistrate.

C. **Limitations on Authority to Grant Variances.**

1. The Planning and Zoning Board shall base its decisions on variances on technical justifications submitted by applicants, the considerations of issuance in Section 7.1.7.F of these regulations, the conditions of issuance set forth in Section 7.1.7.G of these regulations, and the comments and recommendations of the Floodplain Administrator, **Building**, and the Planning Official.
2. The Planning and Zoning Board has the right to attach such conditions as it deems necessary to further the purposes and objectives of these regulations.
3. **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 7.1.5.C of these regulations.

D. **Historic Buildings.**

1. 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 **44.12** Historic Buildings, upon 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.
2. 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.

- E. **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 these regulations, provided the variance meets the requirements of Section **7.1.7.C.3 7.1.7.C.4**, 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.

- F. **Considerations for Issuance of Variances.** In reviewing requests for variances, the Planning and Zoning Board shall consider all technical evaluations, all relevant factors, and all other applicable provisions of the Florida Building Code, these regulations, and the following:
1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
  4. The importance of the services provided by the proposed development to the community;
  5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

6. The compatibility of the proposed development with existing and anticipated development;
7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
9. 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;
10. 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; and
11. The request for variance is not an after-the-fact request.

G. **Conditions for Issuance of Variances.** Variance shall be issued only upon:

1. 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 these regulations or the required elevation standards;
2. Determination by the Planning and Zoning Board that:
  - a. 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;
  - b. 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
  - c. The variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of Court in such a manner that it appears in the chain of title of the affected parcel of land; and
4. 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 the construction below the base flood elevation increases risks to life and property.

#### Sec. 7.1.8. **Violations**

- A. **Violations.** Any development that is not within the scope of the Florida Building Code but that is regulated by these regulations that are performed without an issued permit,



that is in conflict with an issued permit, or that does not fully comply with these regulations, shall be deemed a violation of these regulations. A building or structure without the documentation of elevation of the lowest floor, or other required design certifications, or other evidence of compliance required by these regulations or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

- B. **Authority.** For development that is not within the scope of the Florida Building Code but that is regulated by these regulations 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. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- C. **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 perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as provided below.
- D. **Penalties.** Any person who violates the provisions of these floodplain management regulations shall be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment in the County Jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment. Each day during which the violation occurs shall constitute a separate offense.

#### Sec. 7.1.9. Definitions

- A. **Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of floodplain management regulations, have the meanings shown in this section.
- B. **Terms Defined in the Florida Building Code.** Where terms are not defined in these regulations and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.
- C. **Terms not defined.** Where terms are not defined in these regulations or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.
- D. **Definitions.**
  - 1. **Accessory structure.** A structure on the same parcel of property as a principal structure and the use of which is limited to parking and storage incidental to the use of the principal structure.
  - 1.2. **Alteration of 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.
  - 2.3. **Appeal.** A request for a review of the floodplain administrator's interpretation of any

provision of these regulations.

- ~~3.4.~~ **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.
- ~~4.5.~~ **Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the “100-year flood” or the “1-percent-annual chance flood”.
- ~~5.6.~~ **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 202.]
- ~~7.~~ **Basement.** the portion of a building having its floor sub grade (below ground level) on all sides. [Also defined in FBC, B, Section 202.]
- ~~8.~~ **Critical facility.** a facility which provide or are used to provide basic necessary services and benefits to the community as a whole. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
- ~~6.9.~~ **Design Flood.** The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]
- a. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
  - b. Area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.
- ~~7.10.~~ **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 two (2) feet. [Also defined in FBC, B, Section 202.]
- ~~8.11.~~ **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.
- ~~9.12.~~ **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.
- ~~10.13.~~ **Existing Building and Existing Structure.** Any buildings and structures for which the “start of construction” commenced before September 24, 2003. [Also defined in FBC, B, Section 202.]

**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).

- 11.14. Federal Emergency Management Agency (FEMA).** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.
- 12.15. Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]
- The overflow of inland or tidal waters.
  - The unusual and rapid accumulation or runoff of surface waters from any source.
- 13.16. Flood Damage-Resistant Material.** 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 202.]
- 14.17. Flood Hazard Area.** The greater of the following two areas: [Also defined in FBC, B, Section 202]
- The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
  - The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.
- 15.18. 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 202]
- 16.19. 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 202.]
- 17.20. Floodplain Administrator.** The office or position designated and charged with the administration and enforcement of these regulations (may be referred to as the Floodplain Manager).
- 18.21. Floodplain Development Permit or Approval.** An official document or certificate issued by the City, 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 these regulations.
- 19.22. 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 202.]
- 20.23. 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.
- 21.24. 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.

**22-25. 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.

**23-26. Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

**24-27. 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 **44-12** Historic Buildings.

**25-28. 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:

- a. **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.
- b. **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.
- c. **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.
- d. **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.

**26-29. 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 **enclosures** 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 202.]

**27-30. 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 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 ~~FBC, B, Section 1612.2, 15C-1.0101, F.A.C.~~]

~~28.31.~~ **Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

~~29.32.~~ **Market Value.** ~~The price at which the 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 these regulations, the term refers to the market~~ The value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a ~~qualified independent appraiser, is the Actual Cash Value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the County property appraiser.~~

~~30.33.~~ **New Construction.** For the purposes of administration of these regulations and the flood resistant construction requirements of the Florida Building Code, structures for which the “start of construction” commenced on or after September 24, 2003 and includes any subsequent improvements to such structures.

~~31.34.~~ **New Manufactured Home Parks 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 September 24, 2003.

~~32.35.~~ **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.]

~~33.36.~~ **Recreational Vehicle.** A vehicle, including a park trailer, which is: [See Section 320.01, F.S.]

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

~~34.37.~~ **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 202]

~~35.38.~~ **Start of Construction.**

- a. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of issuance.
- b. 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.

- c. 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.
- d. 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 the alteration affects the external dimensions of the building. [Also defined in FBC, B, Section 202].

**36.39. 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 **exceeds** 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B, Section 202]

**37.40. 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 202]

- a. 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.
- b. Any alteration of a historic structure provided the alteration will not preclude the structure’s continued designation as a historic structure.

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

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

#### Sec. 7.1.10. Flood Resistant Development

##### A. Buildings and Structures.

**1. Design and Construction of Buildings, Structures, and Facilities Exempt from the Florida Building Code.** Pursuant to Section 7.1.4.C. of these regulations, 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 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 7.1.10. G below.

**2. Non-elevated accessory structures.** Accessory structures are permitted below elevations required by the Florida Building Code provided the accessory structures are

used only for parking or storage and:

- a. Are one-story and not larger than 600 sq. ft.
- b. Have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.
- c. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.
- d. Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.
- e. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

**B. Subdivisions.**

1. **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 reasonably be 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.
2. **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 fifty (50) lots or is larger than five (5) acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 7.1.5.B.1;
  - c. Compliance with the site improvement and utilities requirements of Section 7.1.10.C.; and
  - d. Each lot must include a site suitable for construction of a structure in conformity with the standards of these floodplain management regulations.

**C. Site Improvements, Utilities, and Limitations.**

1. **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.
  2. **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 on-site 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. **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.
  4. **Critical Facilities:**
    - a. New critical facilities are prohibited within the Special Flood Hazard Area.
    - b. The lowest floor elevation of critical facilities constructed at least two feet above the base flood elevation (BFE) for the site.
    - c. Substantially improved critical facilities are required to be protected from damage and loss as a result of the 100-year flood or flood of record, whichever is higher.
    - d. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
    - e. Access routes elevated to or above the level of the base flood elevation (BFE) shall be provided to all critical facilities to the maximum extent possible.
  - 3.5. **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 7.1.5.C.1. demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.
  - 4.6. **Limitations on Placement of Fill.** Subject to the limitations of these regulations, 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.
- D. **Manufactured Homes.**
  1. **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 these regulations.
  2. **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 these regulations.



~~Foundations for manufactured homes, subject to 4.b of this Section, are permitted to be reinforced piers or other foundation elements of at least equivalent strength.~~

3. **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.

4. **Elevation.** ~~All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the base flood elevation plus one (1) foot. Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 7.1.10.D.4.a or 7.1.10.D.4.b of these regulations, as applicable.~~

~~a. **General Elevation Requirement.** Unless subject to the requirements of “b” below, 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).~~

~~b. **Elevation Requirement for Certain Existing Manufactured Home Parks and Subdivisions.** Manufactured homes that are not subject the requirements in “a” above, 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:~~

~~i. Bottom of the frame of the manufactured home is at or above the base flood elevation plus one (1) foot; or~~

~~ii. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than thirty six (36) inches in height above grade.~~

5. **Enclosures.** Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322.2 for such enclosed areas.
6. **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 R322.2.

#### E. **Recreational Vehicles and Park Trailers.**

1. **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.

2. **Permanent Placement.** Recreational vehicles and park trailers that do not meet the limitations in E.1. of this Section for temporary placement shall meet the requirements of Section 7.1.10.D above for manufactured homes.

F. **Tanks.**

1. **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.
2. **Above-ground Tanks, Not Elevated.** Above-ground tanks that do not meet the elevation requirements of Section 7.1.10.F.3. 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 or 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. **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.
4. **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.

G. **Other Development.**

1. **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 these regulations or the Florida Building Code, shall:
  - a. Be located and constructed to minimize flood damage;
  - b. Meet the limitations of **7.1.10.C.4** of this Section 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 or meet the requirements of ASCE 24, 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 the building code for wet locations.

2. **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 7.1.10.C.4. above.
3. **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 7.1.10.C.4.(3). above.
4. **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 the watercourse to the other side, that encroach into regulated floodways shall meet the limitations of 7.1.10.C.4. above. Alteration of watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 7.1.5.C.3.

**5. Impacts to a Special Flood Hazard Area where unavoidable, shall be permitted for:**

- a. Access to the site;
- b. Fill for house pads;
- c. Internal traffic circulation, where other alternatives do not exist, or for purposes of public safety;
- d. Utility transmission and collection lines;
- a.e. For the purpose of avoiding cases denying all beneficial use of the property as provided by the Comprehensive Plan.

**H. Mitigation**

1. The City Commission may require mitigation of adverse impacts floodplains as a condition of development approval, if it finds that such impacts are unavoidable. In such cases, action may be taken during or after development to reduce or counteract damage to floodplains areas.
2. A mitigation plan approved by a Federal, State, or regional agency shall be acceptable to the City. The mitigation plan may include, but is not limited to, the following actions:
  - a. Minimizing impacts by limiting the degree or magnitude of a development action in a particular area of a site.
  - b. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the project.
  - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
  - d. Compensating for the impact by replacing or providing substitute resources or environments through creation of new floodplains, enhancement of existing floodplains or reestablishment of damaged floodplains.
  - e. A developer of a compensatory mitigation plan shall grant a conservation easement in accordance with Section 704.06, Florida Statutes, and Section 7.7 of this Code over the area that is the object of the mitigation plan. A legal mechanism other than a conservation easement may be considered, if appropriate, to carry out the purpose of this subsection.

## Sec. 7.5. Upland Buffers

**Sec. 7.5.1. Conservation Area.** An Upland Buffer, consisting of a 50 foot conservation buffer surveyed or otherwise identified upland from a wetland or lake, or floodplain.

### Sec. 7.5.2. Maintenance

- A. The 50 foot conservation buffer shall be maintained as a natural zone to minimize the impact of development on the habitat and the environmentally sensitive lands.
- B. The upland buffer is to provide upland habitat that is necessary for bird and animal foraging and nesting; and to prevent the runoff of contaminants into wetlands and lakes.
- C. When the growth of natural plants, ground cover and grasses in the upland buffer is sparse, it may be supplemented by planting the species of trees and shrubs from the lists found in Article 2 or Article 4.
- D. This upland buffer shall be planted and maintained by the developer, a land manager, a homeowners association, or the homeowner, whichever may be specified in a deed or subdivision restriction or other instrument addressing the creation, ownership and maintenance of the upland buffer.
- E. The upland buffer may be offered or dedicated to the City of Lake Alfred at the City's option and with the City's consent to accept ownership and/or maintenance.

### Sec. 7.5.2. Development Standards

- A. If the topography of the upland buffer on the parcel is greater than a 6% slope, then a berm shall be placed between the dwelling unit and the upland buffer zone, on the building side of the buffer and at the boundary of the buffer, to prevent fertilizer contaminated runoff from inundating the buffer zone.
- B. The 50 foot conservation area shall not be a part of any required rear, side or front yard setback.
- C. In the case where a structure is served by a septic system rather than sanitary sewer, the setback to any part of the septic system shall be seventy-five (75) feet.
- D. No retention structures are permitted in the upland buffer.

### Sec. 2.3.3. Green Swamp Overlay District (GS)

#### G. Wetlands, floodplains, and lakes.

1. There shall be no development within any wetlands or floodplain within the GSACSC. The wetlands and floodplains are mapped on the Development Limitations map so that the boundaries are clearly identifiable.
2. There shall be a 50-foot upland buffer (conservation area) between any structure and upland of all wetlands, floodplains, and the water's edge of a lake (Ordinary High-Water Line), and/or Conservation FLU.
  - a. The buffer is in addition to and shall not be a part of any required rear, side, or front yard setback.
  - b. The buffer shall not include any structures other than docks, nature paths, or elevated walkways as usually found in natural settings.

- c. The buffer shall be planted with native species to encourage the establishment of wildlife habitat. ~~This buffer shall be planted by the developer as a condition of the building permit, and shall be maintained by the homeowner.~~
- e-d. ~~This upland buffer shall be planted and maintained by the developer, a land manager, a homeowners association, or the homeowner, whichever may be specified in a deed or subdivision restriction or other instrument addressing the creation, ownership and maintenance of the upland buffer.~~
- d.e. The buffer may be offered or dedicated to the City of Lake Alfred at the City's option and with the City's consent to accept ownership and/or maintenance.
- e.f. In the case where a structure is served by a septic system rather than sanitary sewer, the setback to any part of the septic system shall be the buffer plus seventy-five (75) feet.
- f.g. Wetlands shall be maintained in their natural and unaltered state. However, controlled burns, selective thinning, and ecosystem restoration and maintenance activities may be conducted within the wetlands, provided they are performed in accordance with current Silviculture Best Management Practices, published by the Florida Division of Forestry. Any isolated wetland of less than one acre shall be exempt from these requirements.

**Business Item No. 3 Florida Sunshine Law Training**

**ISSUE:** The Planning Board will review the Florida Sunshine

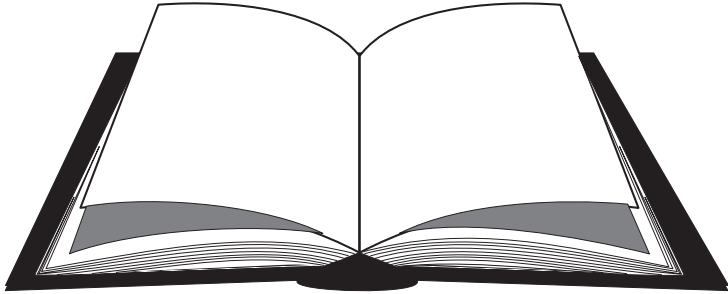
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The Planning Board will discuss applicable sections of the Florida Sunshine Law.

A pdf of the 2023 Sunshine Manual may be referenced at

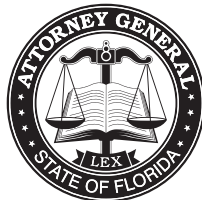
<https://www.myfloridalegal.com/open-government/sunshine-manual>

# GOVERNMENT-IN- THE-SUNSHINE MANUAL



## 2023 Edition

*A Reference For Compliance  
with Florida's Public Records  
and Open Meetings Laws*



*Florida Office of the Attorney General*

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## A Public Policy of Open Government

### INTRODUCTION

Our system of open government is a valued and intrinsic part of the heritage of our state. Each day, Floridians use these laws to inform themselves as citizens, to attend government meetings and to review government records. As a result of these efforts, government leaders can be held accountable for their actions.

The Founding Fathers of our country recognized this fundamental truth during our nation's infancy and it remains just as valid today. As James Madison said: "Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives."

Florida is nationally recognized for its strong support for government in the sunshine and this commitment is reflected in our statutes and Constitution. As Attorney General, I remain committed to the principles of transparency embodied in these laws and the benefits they secure for our state.

This year's edition of the Government in the Sunshine Manual incorporates laws, judicial decisions, and Attorney General opinions in place as of October 1, 2022. Additional information about Florida's Sunshine Laws, including answers to frequently asked questions, is available through the Office of the Attorney General's Internet homepage, which may be reached at [myfloridalegal.com](http://myfloridalegal.com).

Suggestions from those who use this Manual are welcome and appreciated. Please forward comments to: Office of the Attorney General, The Capitol, PL-01, Tallahassee, Florida 32399.

**Ashley Moody**  
**Attorney General**

### Legislative Highlights

The following are some of the more significant actions which occurred during the 2022 legislative session relating to the public's right of access to meetings and records.

**Annuity contract personal identifying information** – Provides that personal identifying information and annuity contract numbers of a payee of a structured settlement as defined in statute and the names of family members, dependents, and beneficiaries of such payee contained within a court file relating to a proceeding for the approval of the transfer of settlement rights under the statute shall remain exempt during the pendency of the proceedings and for 6 months after the final court order approving or not approving the application. **Chapter 22-125, Laws of Florida, amending s. 119.0714, F.S.**

**Applicants for presidency of postsecondary institution** – Establishes confidentiality for personal identifying information of an applicant for president of a state university or college except as provided in the exemption. Also provides that any portion of a meeting held for the purpose of identifying or vetting applicants is exempt. The exemption does not apply to meetings held to establish qualifications for the position or a “compensation framework” or to meetings held after a final group of applicants has been established. **Chapter 22-15, Laws of Florida, creating s. 1004.098, F.S.**

**Crash reports, traffic citations** – Amends current statute relating to confidentiality of crash reports to provide that the exemption applies to any agency, not just those that regularly receive crash reports. Provides for immediate disclosure to the media of redacted reports within the 60-day period that do not contain specified personal information about parties involved in the crash. Provides that computerized crash report data held by an agency is confidential. Specified driver information in traffic citations is made exempt from disclosure requirements. The term “driver information” does not include the driver’s name. **Chapter 22-198, Laws of Florida, amending s. 316.066 and amending s. 316.650, F.S. Effective date: March 1, 2023.**

**Cybersecurity records and meetings** – Provides confidentiality for cybersecurity information held by an agency, including coverage limits for insurance acquired to protect information technology systems; critical infrastructure information; cybersecurity incident information reported pursuant to cited statutes; as well as network schematics and other information that identifies detection, investigation, or response practices for cybersecurity incidents. There is also an exemption from the Sunshine Law for portions of meetings that would reveal such confidential information. Disclosure is authorized in certain circumstances. **Chapter 22-221, Laws of Florida, creating s. 119.0725, F.S., and amending ss. 98.015 and 282.318, F.S.**

**Execution records** – Establishes confidentiality for identification information of persons or entities that participate in execution related functions. **Chapter 22-115, Laws of Florida, amending s. 945.10(1), F.S.**

**Family trust company records** – In specified statutory proceedings in which a family trust company is a party, the clerk must, on written notice from a party, keep all court records of that case separate from other court records and confidential. **Chapter 22-111, Laws of Florida, creating s. 662.1465, F.S.**

**Homeless counts identifying information** – Individual identifying information of a person contained in specified homeless management information system is confidential and exempt. Release of aggregate information that does not disclose identifying information of a person is not precluded. **Chapter 22-33, Laws of Florida, creating s. 420.6231, F.S.**

**Juvenile expunged records** – Nonjudicial records held by the Florida Department of Law Enforcement pertaining to the arrest of juveniles for certain crimes who have had the records

sealed or expunged pursuant to s. 943.0582, F.S., are confidential. Disclosure is authorized as provided in the exemption. **Chapter 22-112, Laws of Florida, amending s. 943.0582, F.S.**

**Law enforcement geolocation information** – Provides that law enforcement geolocation information, as defined in the exemption, that is held by a law enforcement agency is exempt. The exemption does not apply to traffic citations, crash reports, homicide reports, arrest reports, or any other official reports issued by an agency which contain law enforcement geolocation information. Disclosure is authorized under specified circumstances. **Chapter 22-107, Laws of Florida, creating s. 119.071(4)(e), F.S.**

**Lottery winners** – The name of a winner of a prize valued at \$250,000 or more is confidential and exempt for 90 days from the date the prize is claimed, unless the winner consents to the release of his or her name as provided in cited statutes. **Chapter 22-134, Laws of Florida, amending s. 24.1051, F.S.**

**Sexual harassment victims** – The exemption providing confidentiality for personal identifying information of alleged victims of sexual harassment was amended to add that the exemption applies to the victim of sexual harassment as well as the alleged victim, if such information identifies that person as an alleged victim or as a victim of sexual harassment. The amendment also states that confidentiality may be waived in writing by the alleged victim or victim. **Chapter 22-172, Laws of Florida, amending s. 119.071(2)(n), F.S.**