

APPENDIX 10.3
ZONING DESCRIPTIONS

APPENDIX 10.3.1

**POLK COUNTY
LAND DEVELOPMENT CODE
AND CODE OF ORDINANCES**

POLK COUNTY
LAND DEVELOPMENT CODE

Chapter 2

LAND USE DISTRICTS AND REGULATIONS

Table 2.1 Use Table for Standard Land Use Districts (For revision history, please see last row of table.)

	A/RR	RCC-R	RS	RL-1	RL-2	RL-3	RL-4	RM	RH	RCC	CC	CE	LCC	NAC	CAC	RAC	OC	TCC	HIC	BPC-1	BPC-2	IND	PM	L/R	INST1	INST2	ROS	PRESV
Key to Table: P = Permitted Use; C = Conditional Use/Level of Review																												
Riding Academies	C1		C3	C3						P														C1	P			C3
Salvage Yard																						C3						
School, Elementary	C3	C2	C2	C2	C2	C2	C2	C2	C2	C2															P	C2		
School, Middle		C3	C3	C2	C2	C2	C2	C2	C2	C3															P	C2		
School, High		C3	C3	C3	C3	C3	C3	C2	C2																C3	P		
School, Leisure/Special Interest								C3	C3	C3	C3	C2	C2	C2	P	P	C3	P	P	C2	C2	C3	C3	P	P	P	P	
School, Technical/Vocational/Trade	C3									C3	C3	C3	C3	C3	C2	C2	C2	C2	P	C2	C2	P	C2		C3	P		
School, Training	C3									C3	C3	C3	C3	C3	C2	C2	C2	C2	P	C2	C2	P	C2		C3	P		
School, University/College		C3					C3	C3	C3	C3				C3	C3	C3		C3	C3	C2	C2	C3			C3	P		
Seaplane Base	C3	C3	C3																			C3		C3	C3	C3		
Self-storage Facility										C3		C2	C2	C2	C2	C2			C2	C2	C2	C2						
Studio, Production										P			P			P	P		P	P	P	P						
Solar Electric-Power Generation Facility	C2	C3	C3																C2	C2	C2	C2	C2		C2	C2		
Transit, Commercial													C3			P					P	P						
Transit, Facility														P	P	P		P	P	P	P	P						
Truck Stop																P			P									
Utilities, Class I	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Utilities, Class II	C1	C1	C1	C1	C1	C1	C1	C1	C1	C1	P	P	P	P	P	P	C1	P	P	P	P	P	P	P	P	P	P	
Utilities, Class III	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C4	C2	C2	C4	C4	C3	C4	
Vehicle Recovery Service/Agency			C4							C2		C2	C2						C2		C2	C2						
Vehicle Repair, Auto Body										C2		C4	C3						P		P	P						
Vehicle Service, Mechanical										P		C4	C2	P	P	P		P	P		P	P						
Vehicle Sales, Leasing										C2		C4	C2		C2	P		C2	P									
Veterinary Service	P		C2							C1	C1	P	P	P	P	P	C2	P	P		C2	C2	P	P				
Warehousing																			P	P	P	P						
Water Ski Schools	C4		C4							C4	C3	C3	C3	C3	C3	C3		C3	C3	C3	C3	C3	C3	C3	C3	C3	C3	
Wholesale, Enclosed										P		C3	C2		P	P			P	P	P	P						
Revised 12/6/11 – Ord. 11-033; 12/6/11 – Ord. 11-032; 6/28/11 – Ord. 11-008; 2/3/10 – Ord. 10-007; 12/01/09 – Or. 09-073; 09/16/09 – Ord. 09-060; 09/02/09 – Ord. 09-055; 9/2/09 – Ord. 09-054; 7/22/09 - Ord. 09-047; 11/12/08 – Ord. 08-56; 8/15/07 – Ord. 07-44; 05/10/06 - Ord. 06-23; 04/19/05 – 05-013;01/03/05 - Ord. 04-80; 10/07/04 - Ord. 04-58; 06/08/04 - Ord. 03-95, Ord. 04-09; 12/04/03 - Ord. 03-81; 03/25/03 - Ord. 03-23; 01/30/03 - Ord.03-12, Ord. 03-13, and Ord. 03-14; 11/27/02 - Ord. 02-84; 10/23/02 - Ord. 02-69; 7/29/02 - Ord. 02-51; 5/15/02 - Ord. 02-22; 4/4/02 - Ord. 02-18; 2/11/02 - Ord. 02-04; 12/28/01 - Ord. 01-92; 7/25/01 - Ord. 01-57 - Ord. 01-58;)																												

Chapter 6

RESOURCE PROTECTION

environmental benefits. This Section provides for the protection, maintenance, enhancement, and utilization of wetlands within Polk County in accordance with applicable Federal and State laws and regulations.

B. *Applicability*

1. The requirements of this Section shall apply to all wetlands under the jurisdiction of one of the following:
 - a. The U.S. Army Corps of Engineers (USACOE).
 - b. The Florida Department of Environmental Protection (FDEP).
 - c. The Southwest Florida Water Management District (SWFWMD).
 - d. The South Florida Water Management District (SFWMD).
 - e. The St. Johns River Water Management District (SJRWMD).
2. No disturbance of wetlands covered by this Section shall be allowed unless authorized or exempted from regulation by the Florida Department of Environmental Protection, the U.S. Army Corps of Engineers, and the applicable Water Management District. Proof of the appropriate permit or exemption shall be required prior to the issuance of a Final Development Order from the County.
3. An undisturbed vegetative buffer adjacent to surface waters with an average width of 25 feet and a minimum width of 15 feet shall be maintained for stormwater treatment and wildlife utilization measured perpendicularly from the OHWL or the jurisdictional wetland line, whichever is greater.

C. *Development Standards*

All development within areas covered by this Section shall comply with the following:

1. Wetland impacts shall be avoided to the maximum extent possible.
2. Wetland impacts, where unavoidable and where properly mitigated as determined by agencies having jurisdiction, shall be permitted for:
 - a. Access to the site;
 - b. Internal traffic circulation, where other alternatives do not exist, or for purposes of public safety;
 - c. Utility transmission and collection lines;

Chapter 10

DEFINITIONS

UNDERSTORY TREE (Added 03/18/09 – Ord. 09-006): Any self supporting woody plant of a species that does not typically achieve an overall height at maturity of more than 30 feet.

UNIFORM STREET ADDRESS SYSTEM: The system created by Polk County Ordinance 90-38, which incorporated the Street Naming System, the Building Numbering Plan, and the Address Numbering Maps.

UNIT: That part of a building housing one or more occupant.

USE, ACCESSORY/ANCILLARY: A use which:

1. Is clearly incidental to, customarily found in association with, and serves a principal use;
2. Is subordinate in purpose, area, and extent to the principal use served;
3. Is located on the same lot as the principal use, or on an adjoining lot in the same ownership as that of the principal use; and
4. Is not the principal use.

UTILITIES, CLASS I: Transmission lines, whether subterranean or overhead; including electrical, natural gas, and water distribution lines; sewer gravity lines and pressure mains; underground septic tanks and drain fields; effluent disposal systems; cable television and telephone transmission lines; or similar utility lines.

UTILITIES, CLASS II: Booster stations, pumping stations, switching facilities, substations, lift stations, or other similarly required facilities in connection with telephone, electric, steam, water, sewer, and other similar utilities.

UTILITIES, CLASS III: (Revised 9/27/11 – Ord. 11-020) Production or treatment facilities such as sewage treatment plants, elevated water storage towers, non accessory ground storage tanks, or similar facilities. This definition does not include electric power plants and lime stabilization facilities.

UTILITY TRAILER: A transport vehicle designed to be hauled by a motorized vehicle for one or more purposes.

VACATION: To release, or give up authority over an imposed dedication imposed by an exaction.

VARIANCE: Is a grant of relief from the requirements of this ordinance where specific enforcement would result in unnecessary hardship to the property.

VEGETATION NATIVE:(Rev. 12-04-03 Ord. 03-82) Any plant species with a geographic distribution indigenous to all, or part, of the State of Florida.

**POLK COUNTY
CODE OF ORDINANCES**

Sec. 10.5-48. - Title.

This division shall be known and may be cited as the "Polk County Noise Control Ordinance".

(Ord. No. 04-33, § 1, 6-30-04)

Sec. 10.5-52. - Definition of a noise disturbance.

As used in this division, a noise disturbance is any sound that is:

- (a) Of such duration, volume, or intensity as to be injurious to human or animal life, or property;
- (b) Of such duration, volume, or intensity as to unreasonably interfere with the comfortable enjoyment of life, property, or the conduct of business; or
- (c) Of such duration, volume, or intensity as to alarm, disturb, or annoy reasonable people.

(Ord. No. 04-33, § 5, 6-30-04)

Sec. 10.5-53. - Prohibition of noise disturbance.

No person or business may make, continue, permit, or cause to be made or continued, any noise disturbance as defined in this division. Factors that shall be considered in determining whether a violation of this division has occurred, shall consist of, but not be limited to, the following:

- (a) The duration, volume, or intensity of the noise;
- (b) The nature and zoning of the area from which the sound emanates in relation to the area where it is perceived;
- (c) The time of day or night the noise occurs;
- (d) Whether the noise is recurrent, intermittent, or constant;
- (e) Prior violations of this division by the same disturbance; and
- (f) Whether a written noise complaint, as set forth in section 10.5-54, has been received by the sheriff's office.

(Ord. No. 04-33, § 6, 6-30-04)

Sec. 10.5-58. - Exemptions.

The provisions of this division, except for those specific prohibitions set forth in section 10.5-56 of this division, shall not apply to the following sounds:

- (a) The unamplified human voice;
- (b) Railway locomotives or cars;
- (c) Household or farming tools, appliances, and equipment meeting manufacturer's specifications as to sound, if applicable;
- (d) Aircraft and airport activity conducted in accordance with federal laws and regulations;
- (e) Maintenance of public service facilities;
- (f) Law enforcement activities, including training;

- (g) Licensed game hunting activities;
- (h) Authorized target shooting;
- (i) Emergency signals during emergencies;
- (j) Emergency testing;
- (k) Motor vehicles operating on a public right-of-way subject to Section 316.293, Florida Statutes;
- (l) Refuse collection and mosquito fogging;
- (m) Operation of any regulated utility;
- (n) Construction activities exempt from, or for which Polk County has issued a development permit; provided such activity occurs between 6:00 a.m. and 9:00 p.m.;
- (o) Organized athletic contests;
- (p) Sounds relating to and originating within any area zoned for commercial use (except for those sounds specifically prohibited in [section 10.5-56](#) of this division);
- (q) Sounds relating to and originating within any area zoned for industrial use (except for those sounds specifically prohibited in [section 10.5-56](#) of this division);
- (r) Sounds relating to and originating from legal, pre-existing, nonconforming, commercial and industrial activities (except for those sounds specifically prohibited in [section 10.5-56](#) of this division);
- (s) Boats and boating activity;
- (t) Phosphate mining activity;
- (u) Emergency devices and vehicles used for the purpose of alerting people of an emergency, or the emission of sound in performance of emergency work;
- (v) Lawful noncommercial public gatherings, including, but not limited to parades, festivals, and school functions (except for those sounds specifically prohibited in [section 10.5-56](#) of this division);
- (w) Reasonable operation of equipment associated with the following activities between 6:00 a.m. and 9:00 p.m.: lawn care, soil cultivation, maintenance of trees, hedges, and gardens; the use of lawnmowers, saws, and tractors; tree trimming; and limb clipping.

(Ord. No. 04-33, § 11, 6-30-04)

APPENDIX 10.3.2

**HILLSBOROUGH COUNTY
LAND DEVELOPMENT CODE AND REGULATIONS**

**HILLSBOROUGH COUNTY
LAND DEVELOPMENT CODE**

Sec. 2.02.01. - Statement of Intent - Standard Zoning Districts

The following section describes the purpose and intent of each standard zoning district within Hillsborough County. It is the intent of these districts to be in accordance with and promote the purpose of the Comprehensive Plan. Intent statements for each Special District and for the Planned Development District are addressed elsewhere in this Code.

Agricultural Districts

Agricultural districts provide for agricultural uses and residential development on lots in accordance with the Comprehensive Plan. Accessory uses and Special Uses are also permitted or permissible.

AM - Agricultural Mining

The purpose of this district is to protect viable long-term agricultural lands from urban and suburban encroachment by encouraging agricultural, residential, and related uses on parcels of at least twenty (20) acres. The district provides the opportunity for phosphate mining and extractive activities.

A - Agriculture

The purpose of this district is to protect viable long term agricultural lands so classified in the Comprehensive Plan from urban and suburban encroachment by encouraging commercial agricultural use of the land, residential development, and related uses on parcels of at least ten (10) acres.

AR - Agricultural Rural

The purpose of this district is to protect viable long term agricultural lands so classified in the Comprehensive Plan from urban and suburban encroachment by encouraging agriculture and related uses on parcels of at least five (5) acres.

AS-0.4 - Agricultural Single Family Estate

The purpose of this district is to permit single-family conventional and mobile home residential development in a low density rural environment which encourages agricultural activities and their supporting uses. The minimum lot size in the AS-0.4 district is 2.5 acres.

AL - Agricultural Industrial

The purpose of this district is to allow agricultural and related uses within areas designated for industrial uses by the Comprehensive Plan on parcels of at least one (1) acre. New residential development is not permitted in the AI district.

AS-1 - Agricultural, Single-Family

The purpose of this district is to encourage agricultural and related uses and permit single-family conventional and mobile home development in a rural environment on parcels of at least one (1) acre.

ASC-1 - Agricultural, Single Family Conventional

The purpose of this district is to encourage agricultural and related uses and permit single-family conventional development in a rural environment on lots containing a minimum of one (1) acre.

Residential Districts

Residential districts provide for the development of a variety of residential housing types in accordance with the Comprehensive Plan. Accessory uses, compatible related support uses, and special uses are also permitted or permissible.

RSC-2 - Residential, Single-Family Conventional

The purpose of this district is to provide the opportunity for one-half acre or larger lot single-family conventional development in conformance with the provisions of the Comprehensive Plan and preserve the suburban density living environment.

RSC-3 - Residential, Single-Family Conventional

The purpose of this district is to provide the opportunity for one-third acre or larger lot single-family conventional development in conformance with the provisions of the Comprehensive Plan and preserve the low-density suburban living environment.

RSC-4 - Residential, Single-Family Conventional

The purpose of this district is to provide the opportunity for one-fourth acre or larger lot single-family conventional development in a suburban living environment in conformance with the provisions of the Comprehensive Plan.

RSC-6 - Residential, Single-Family Conventional

The purpose of this district is to provide the opportunity for 7,000 square foot or larger lot single-family conventional development in a suburban living environment in conformance with the provisions of the Comprehensive Plan.

RSC-9 - Residential, Single-Family Conventional

The purpose of this district is to provide the opportunity for 5,000 square foot or larger lot single-family conventional development in a medium density living environment in conformance with the provisions of the Comprehensive Plan.

MH - Mobile Home Overlay

The purpose of this overlay district is to provide for the opportunity for the development of mobile homes on lots that are consistent with the underlying zoning in conformance with the provisions of the Comprehensive Plan.

RDC-6 - Residential, Duplex Conventional

The purpose of this district is to provide the opportunity for 7,260 square foot or larger lot conventional two family zero lot line, conventional two family development while preserving a low-medium density living environment in conformance with the provisions of the Comprehensive Plan.

RDC-12 - Residential, Duplex Conventional

The purpose of this district is to provide the opportunity for 3,500 square foot or larger lot conventional two family zero lot line, conventional two family development while preserving a medium density living environment in conformance with the provisions of the Comprehensive Plan.

RMC-6 - Residential, Multi-Family Conventional

The purpose of this district is to provide the opportunity for areas of conventional multiple family dwelling units such as triplex, quadplex, and townhouse types of structures while preserving a low-medium density living environment in conformance with the provisions of the Comprehensive Plan.

RMC-9 - Residential, Multi-Family Conventional

The purpose of this district is to provide the opportunity for areas of conventional multiple family dwelling units such as duplex, triplex, quadraplex and townhouse types of structures in a low-medium density living environment in conformance with the provisions of the Comprehensive Plan.

RMC-12 - Residential, Multi-Family Conventional

The purpose of this district is to provide the opportunity for areas of conventional multiple family dwelling units in a medium density living environment in conformance with the provisions of the Comprehensive Plan.

RMC-16 - Residential, Multi-Family Conventional

The purpose of this district is to provide the opportunity for areas of conventional, multiple family dwelling units in a medium density living environment in conformance with the provisions of the Comprehensive Plan.

RMC-20 - Residential, Multi-Family Conventional

The purpose of this district is to provide the opportunity for areas of conventional multiple family dwelling units in a high density living environment in conformance with the provisions of the Comprehensive Plan.

Office Districts

The office districts are intended to provide for office uses, compatible special uses, and related support uses in accordance with the Comprehensive Plan and the provisions of the Code.

BPO - Business, Professional Office

The purpose of this district is to provide for office development. This district shall be applied at appropriate locations in conformance with the goals, policies, and objectives of the Comprehensive Plan where it will not adversely impact the facilities and services of the County; and were it will not set a precedent for the introduction of an inappropriate use into the area. This district can also be utilized as a transitional district between residential development and commercial districts.

OR - Office Residential

The purpose of this district is to provide for office development on a small scale within an existing residential structure. This district shall only be applied at appropriate locations to serve the needs of such neighborhoods in conformance with the goals, policies, and objectives of the Comprehensive Plan.

Commercial Districts

The commercial districts are intended to provide for retail sales, personal service, and office uses, as well as appropriate supporting accessory uses and selected special uses in locations and at intensities in accordance with the Comprehensive Plan and this Code.

CN- Commercial, Neighborhood

The purpose of this district is to provide for limited retail uses and personal services in freestanding buildings or small shopping centers to serve residential neighborhoods. This district shall be applied at appropriate locations to supply the daily retail and service needs of such neighborhoods where it will not adversely impact the facilities and services of the County; and where it will not set a precedent for the introduction of inappropriate uses into an area.

CG - Commercial, General

The purpose of this district is to provide for a variety of retail and service uses in free-standing buildings or shopping centers to serve the community's general commercial needs. This district shall only be applied at appropriate locations to conveniently meet the needs of the community in conformance with the goals, objectives, and policies of the Comprehensive Plan; where it will not adversely impact the facilities and services of the County; and where it will not set a precedent for the introduction of inappropriate uses in the area.

CI- Commercial, Intensive

The purpose of this district is to provide areas for intense commercial activities permitting commercial and service uses which have greater external effects such as noise, traffic, vibration, or outdoor storage. This district shall only be applied at appropriate locations in conformance with the goals, objectives, and policies of the Comprehensive Plan. This district shall be located where it will not adversely impact the facilities and services of the County and where it will not set a precedent for the introduction of inappropriate uses into an area.

Industrial Districts

The industrial districts are designed primarily to provide for manufacturing, processing, assembly, warehousing, intensive commercial and other related uses. Performance standards are used to insure compatibility with neighboring uses and districts and to distinguish among the various classes on industrial uses and to encourage that industrial uses develop in appropriate locations and at intensities in accordance with the Comprehensive Plan.

Expansion or new development of non-manufacturing land uses in industrially designated areas shall be prohibited except as authorized by this Code. The intent of industrially designated areas is to ensure the availability of lands for industrial development and to ensure that non-industrial uses which may be provided in such areas are subordinate, so that industrial uses predominate.

M-Manufacturing

The purpose of this district is to provide areas for manufacturing, processing or assembling uses, intensive commercial uses and other industrial uses in appropriate areas of Hillsborough County in conformance with the provisions of the Comprehensive Plan. Appropriate performance standards shall be applied to limit the effect of such uses on uses within the district and adjacent districts.

(Ord. No. 97-18, § 2, 12-18-97; Ord. No. 00-21, § 2, 5-18-00; Ord. No. 03-9, § 2, 6-5-03; Ord. No. 03-36, § 2, 11-12-03; Ord. No. 06-24, § 2, 6-24-06; Ord. No. 08-29, § 2, eff. 2-1-09)

Sec. 2.02.02. - Allowable Uses In Zoning Districts

1. The table below indicates the categories of uses which are allowable in each standard zoning district within Hillsborough County. The categories of uses are arranged in the vertical column on the left side of the table and the zoning districts are listed across the top. "P" indicates that the use is permitted, subject to the standards of this Code. "C" indicates the use is a Conditional Use that may be allowed in the identified district pursuant to conformance with the design standards contained in Article VI. No public hearing is required for Conditional Uses unless otherwise stated in the applicable standards in Article VI. "S" designates uses as Special Uses that may be established in the district, pursuant to a noticed public hearing as described in Part 10.02.00 and in conformance with the standards

Uses in Industrially Designated Areas). A blank space indicates that the use is prohibited. All uses are subject to the development standards of the zoning district in which it is to be located as well as all other rules and regulations of this Code and Hillsborough County.

- Click here for a PDF version of this table: <http://library.municode.com/pdfcontent/12399/2.02.02.pdf>

[illegible]

[illegible]

Recyclable Material Drop Off Center	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	A	A	
Recyclable Metal Recovery Facilities																							C	C									
Recyclable Metal Recovery Facilities, Open																								C									
Recyclable Metal Recovery Facilities, Enclosed																								C	C								
Resource Recovery Facilities	C	C	C	C	C	C	C																	C	C								
Vehicle Recycling, Open																								C	C								
Vehicle Recycling, Enclosed																								C	C								
Yard Waste Air Curtain Incinerator	C	C	C	C	C	C	C																	C	C						C	C	C
Yard Waste Composting Facility	C	C	C	C	C	C	C																	C	C						C	C	C
Yard Waste Transfer Facility	C	C	C	C	C	C	C																	C	C						C	C	C

Sec. 4.01.01. - Short Title

This Part shall be known and may be cited as the "Hillsborough County Natural Resources Regulations."

Sec. 4.01.03. - Natural Resources Permit

A. When Required

Except as specifically exempted herein, it shall be unlawful for any person, firm or corporation, either individually or through an agent to cause land alteration within the unincorporated areas of Hillsborough County without having obtained a Natural Resources Permit from the Administrator, or to allow a condition which is the result of unauthorized land alteration activity to remain unremedied. The property owner at the time a violation is discovered may be held responsible for remedying said violation pursuant to Section 11.06.00 of the Code.

B. Effect of Permit

Issuance of a Natural Resources Permit by the Administrator, or exemption from the requirement thereof, does not abrogate any legal requirement to comply with the regulations of any other governmental agency, local, state or federal, which may have jurisdiction over the proposed activity upon the land.

C. Exceptions to Requirement of Permit

No permit under this section is required for:

1. The removal of dead or naturally fallen vegetation, except within an environmentally sensitive area.
2. The limited removal of understory vegetation necessary to obtain clear visibility between two points for the purpose of performing field survey work, provided the removal will not create a cleared swath wider than three feet.
3. The removal of vegetation that is endangering public health, safety or welfare, and, after consultation with Administrator, it is determined by Administrator that there is no other remedy provided in this Code.
4. The removal of exempted trees, as defined in this Code.
5. The removal of vegetation planted on the premises of a plant or tree farm and grown for the purpose of selling to the general public in the ordinary course of business.
6. The transplanting of understory vegetation, including any tree with a DBH of less than five inches, for use as landscaping material within the site or off the site, provided the understory vegetation is not transplanted from an environmentally sensitive area.
7. Land alteration activities within new, approved utility rights-of-way or easements necessary to supply gas, water, sewer, telephone, cable television, or electrical service with one exception, provided these activities do not adversely impact an environmentally sensitive area. The exception to this exemption is any land alteration activity within a new electrical transmission corridor greater than 100 feet in width. Pursuant to the definition of land alteration, activities undertaken to maintain existing utility rights-of-way or easements are not regulated by these land alteration regulations.
8. Land alteration activities necessary to install a sprinkler system, septic tank, septic tank drainfield, utility line or swimming pool; or minor filling for topsoil or foundation fill;

provided these activities do not involve tree removal or are not undertaken within an environmentally sensitive area. (NOTE: Swimming pools, septic tanks and septic tank drainfields are prohibited within setbacks associated with wetlands and natural water bodies pursuant to [4.01.07](#)

9. Land alteration activities on residentially zoned land for single-family or two-family residential use where the principal structure allowed pursuant to the zoning regulations has been previously permitted and constructed, provided:
 - a. The activities do not impede or divert the flow of surface water entering or leaving the lot or parcel in a manner that adversely impacts offsite property; or
 - b. The activities do not adversely impact an environmentally sensitive area; or
 - c. The activities do not involve the removal of any tree having a DBH of 12 inches or greater or adversely impact the health of such trees.
10. Land alteration activities which are normal and necessary to conduct bona fide agricultural operations, as determined by the Administrator, where those operations are on land in a zoning category which allows agricultural use, provided:
 - a. The activities do not impede or divert the flow of surface water entering or leaving the land in a manner that adversely impacts offsite property; or
 - b. The activities do not adversely impact an environmentally sensitive area; or
 - c. Not more than 500 cubic yards of material are removed off-site.
 - d. The activities conform to the standards specified in [Section 4.01.05.E](#) of this Code.
11. Land alteration activities regulated by the Phosphate Mining Regulations. While no Natural Resources Permit is required, land alteration activities regulated by the Phosphate Mining Regulations shall be in compliance with certain standards and guidelines contained in the Natural Resources Regulations as specifically provided in the Phosphate Mining Regulations.
12. Land alteration activities regulated by the Land Excavation Regulations. While no Natural Resources Permit is required, land alteration activities regulated by the Land Excavation Regulations shall be in compliance with certain standards and guidelines contained in the Natural Resources Regulations as specifically provided in the Land Excavation Regulations.
13. Land alteration activities regulated by the Hillsborough County Solid Waste Ordinance.
14. Land alteration activities required by an administrative or judicial order for the correction of landfill violations or closure of a landfill pursuant to Chapter 17 of the Florida Administrative Code or Chapter 1-7, Rules of the EPC.
15. Hillsborough County land alteration activities within public rights-of-way, easements or parcels necessary to construct public works facilities are required to comply with the intent of the Natural Resources Regulations; and the Administrator shall review these activities to ensure such compliance. However, Hillsborough County shall not be required to submit an application, pay a review fee, or obtain a Natural Resources Permit. Any request for variance or waiver regarding such activities shall be heard directly by the Land Use Hearing Officer.
16. In the interest of public safety, health and general welfare during or following high winds, storms, hurricanes, tornadoes, floods, freezes, fires or other manmade or natural disasters, the Administrator, upon finding that a waiver is necessary and

defining geographically the area of the emergency, may suspend the Natural Resources Regulations for a period of up to 30 days in the affected area.

17. The trimming and removal of trees for runways, taxiways, aprons, runway protection zones and approaches, air traffic control towers, and aircraft navigational aids when federal law, Florida state law or local airport zoning regulations require trimming or removal of trees for public safety purposes. Additionally, no tree replacement in accordance to Sections [4.01.06.A.7](#) and [.8](#) or contribution to the Restoration Fund in accordance with [Section 4.01.15](#) shall be required for this permit exception; however any trimming or removal of trees under this subsection on land that is not owned or operated by a public aviation authority shall require compliance by the aviation authority with tree replacement requirements specified in Sections [4.01.06.A.7](#) and [.8](#) to the extent allowed under the height regulations contained in federal law, Florida state law or local zoning regulations. Where height regulations prevent such replacement of trees, no contribution to the Restoration Fund shall be required under [Section 4.01.15](#)

D. Certain Activities Exempt From Provisions Pertaining to Uplands Providing Significant and Essential Wildlife Habitat

1. The terms of [4.01.08](#) through [4.01.13](#), pertaining to Uplands Providing Significant and Essential Wildlife Habitat, shall not apply to the following activities:
 - a. Land alteration activities necessary to make the improvements shown on Site Development Plans and Subdivision Construction Plans approved prior to May 1, 1992; or
 - b. Land alteration activities necessary to develop a minor commercial project which does not require approval under the Site Development Regulations; or
 - c. Land alteration activities on land subdivided pursuant to the Subdivision Regulations for a subdivision that does not require improvement facilities; or
 - d. Land alteration activities necessary to construct a single family or two family residence.
2. Development specifically vested against land development regulations adopted to implement the Comprehensive Plan pursuant to a valid, unexpired Vested Rights Special Use Permit shall not be required to comply with [4.01.08](#) through [4.01.13](#), pertaining to Uplands Providing Significant and Essential Wildlife Habitat. The County shall determine the extent to which development rights have been vested in each case, based on the Order issued by the Vested Rights Hearing Officer.
3. Development specifically approved in a final, unexpired DRI Development Order which was adopted prior to the adoption of the Future of Hillsborough Comprehensive Plan is exempt from the provisions of [4.01.08](#) through [4.01.13](#), Uplands Providing Significant and Essential Wildlife Habitat. Further, any amendment to such DRI Development Order which does not increase the impact of authorized development within upland habitat areas sought to be protected by the provisions of [4.01.08](#) through [4.01.13](#) shall also be exempt from such provisions. Any amendment to such DRI Development Order which does increase the impact of authorized development within upland habitat areas sought to be protected by the provisions of [4.01.08](#) through [4.01.13](#) shall be addressed in the manner provided in that Section. Except as to applications subject to a Hearing Master recommendation pursuant to Part 9.02, the County Attorney's Office shall make a recommendation to the Board of County Commissioners as to the extent of vesting in each case.
- 4.

These regulations shall not apply to those land alteration activities that are necessary to make the improvements shown on the CU Detailed Site Plans, Preliminary Plats, Commercial Site Plans and Commercial Landscaping Plans submitted to the Administrator for review prior to November 15, 1985. These activities shall be reviewed for compliance with Ordinance 74-13, as amended, and 77-1, as amended. Those land alteration activities associated with construction of the principal and ancillary structures on individual lots in a subdivision are activities separate from those described above and shall be required to comply with these regulations, except those activities associated with construction of the principal structures on residential subdivision lots which prior to November 15, 1985 were assessed fees pursuant to Ordinance 74-13.

5. The terms of 4.01.08 through 4.01.13 pertaining to upland significant wildlife habitat shall not apply to those land alteration activities which are normal and necessary to conduct bona fide agricultural operations where those operations are on land designated AR, A, or AM, once 8,500 acres of upland significant wildlife habitat on lands designated AR, A, or AM on the Future Land Use Map are permanently protected.
6. With exceptions, the terms of 4.01.08 through 4.01.13 pertaining to upland significant wildlife habitat shall not apply to any land alteration activities once 22,000 acres of upland significant wildlife habitat are permanently protected. The exceptions are as follows:
 - a. The terms of 4.01.09 C 3, 4 and 5 pertaining to roads shall continue to apply; and
 - b. The terms of 4.01.08 through 4.01.13 shall continue to apply to land alteration activities necessary to construct public utilities.

E. Inventory

The Administrator shall maintain an inventory and record of lands meeting the requirements prescribed in 4.01.03 D 5 and 6. To be credited toward the prescribed targets, such lands shall have been permanently protected on or after March 4, 1992. The Administrator shall certify that the prescribed targets have been met.

(Ord. No. 03-9, § 2, 6-5-03; Ord. No. 05-10, § 2, 6-16-05, eff. 10-1-05; Ord. No. 09-62, Item D, 10-26-09, eff. 2-1-2010)

Sec. 4.01.05. - Soil and Water

A. Minimization of Impact

1. Proposed improvements shall be designed and located to minimize land alteration activities which would unnecessarily remove the existing vegetation or alter the topography of the natural land surface.
2. Adequate protection measures, such as hay bales, baffles, sodding and sandbagging, shall be provided as necessary to minimize erosion and downstream sedimentation caused by surface water runoff on exposed land surfaces.

B. Surface Water Discharges

1. The turbidity of surface water discharged off-site or into any wetland or natural body of water on-site shall not violate the water quality standard for turbidity as stated in the Rules of the EPC. Turbid water in violation of this standard shall be treated prior to discharge off-site or into any wetland or natural body of water on-site by using sediment control measures such as settling basins, berms, interceptor ditches, silt

screens and other sediment traps. Whenever sediment control measures are necessary, they shall be installed prior to initial clearing and grading operations and maintained throughout the land alteration activity as a condition of granting the permit.

2. Surface water runoff shall be discharged only within the drainage area that normally receives this runoff, unless otherwise approved.

C. Excavation

1. Excavating activities shall not adversely impact the quality of groundwater on surrounding property. Applicants must ensure the proposed excavating activities meet the standards of the EPC and other applicable agencies.
2. Excavating activities shall not adversely impact water levels of either surface water or groundwater on surrounding property. The Administrator may set limits on water level declines at the property line, may require the installation of appropriate monitoring/observation wells, and may require the submittal of monitoring reports regarding water level fluctuation.

D. Exposed Soils

Exposed soils shall be vegetated upon completion of land alteration activities. Areas may be sodded, plugged, sprigged, seeded or covered with other vegetation as desired. In areas where erosion is likely, such as slopes greater than 5:1 or areas of erosion prone soils, the Administrator may determine that sodding is required. Where erosion is found to be occurring, sodding shall be required. In areas where grass seed is used, nurse grass seed (e.g. rye, millet) shall also be sown for immediate effect.

E. Placement of Fill

1. Fill shall not be placed in wetlands, natural water bodies, natural water courses, or their floodplains up to and including the 100-year floodplain, manmade channels, or any natural or manmade stormwater storage area unless approved otherwise by appropriate regulatory agencies.
2. No filling with clean fill or any other material shall be permitted on any site located within a five-mile radius from the perimeter of the Hillsborough Heights Landfill, except as exempted under 4.01.03 or for grading or filling (with soil only) necessary to construct an approved single-family or two-family residence or construct an approved subdivision or site development project, or topsoiling to establish vegetative cover.
3. Filling activities using shell, stone, concrete and/or reinforced concrete rubble shall require the upper two feet of the filling activity to consist of soil, only.
4. Filling activities using mulch shall be restricted as follows:
 - a. Mulch shall not be placed in any natural or artificial body of water;
 - b. Mulch shall not be placed in an open sinkhole or dewatered pit; and
 - c. Mulch shall not be placed in any area prone to frequent or periodic flooding.

(Ord. No. 09-62, Item D, 10-26-09, eff. 2-1-2010)

Sec. 4.01.06. - Trees and Other Vegetation

A. Design Standards

1. The developer shall design and locate proposed improvements to minimize the removal of native vegetation and all trees having a DBH of five inches or greater. However, it is not the intent of this provision to preclude the reasonable use of a lot or parcel of land consistent with the requirements of the this Code.
- 2.

The developer shall preserve all trees having a DBH of five inches or greater and native vegetation as described below. This provision shall apply except in cases where removal is necessary to allow access to and immediately around proposed structures or other improvements, to allow development of recreational open space requiring cleared areas, to remove unhealthy or damaged vegetation, to install a utility or solar energy equipment that could not otherwise be installed, or to comply with other regulations of Hillsborough County.

3. The developer shall preserve all trees identified as a grand oak unless authorized for removal by the Administrator. This provision shall not apply for a grand oak located in road site distances, recovery and maintenance areas as shown in the Transportation Technical Manual unless the County Engineer, otherwise, renders a determination that a grand oak may be preserved in these areas.
4. For any land to be developed which contains a natural plant community, a minimum of 50 percent of the total pervious open space of a proposed development project (excluding any area to be used for a stormwater retention or detention basin or stormwater conveyance) shall retain the native vegetation of the plant community, including understory vegetation. If the area of existing natural plant community is less than 50 percent of this total pervious open space, then all of the native vegetation shall be retained. At the time construction of the principal structure allowed pursuant to this Code, the native vegetation retention requirement shall not apply to an individual lot to be developed for single-family or two-family residential use.
5. Where a golf course is to be developed on land containing a natural plant community, the golf course shall be designed to maximize the preservation of the native vegetation of the community by incorporating portions of this vegetation, including understory vegetation, into the golf course where possible. Preservation can be accomplished by using narrower fairways, retaining the native vegetation within the outer rough areas, and using this vegetation to buffer and screen between parallel fairways.
6. Removal of native trees having a DBH of five inches or greater within 100 feet of the Hillsborough River, Alafia River, or Little Manatee River shall be prohibited, except when reasonable property use is not possible without removal or in cases of overriding public interest. The 100 feet shall be measured from the jurisdictional line established by the EPC for wetlands or natural water bodies.
7. The developer shall be required to replace 50 percent of the total DBH of any tree having a DBH of 24 inches or greater or any clump of trees, as defined in this Code, that is to be removed from the site. Irreparably unhealthy or damaged trees, as determined by the Administrator, shall not require replacement. If the tree removed is a species which either has undesirable growth habits or is susceptible to freeze damage, as determined by the Administrator, replacement shall not be required. A grand oak, however, shall be replaced as indicated below if authorized for removal by the Administrator.

Grand Oak Trunk Measurement	Replacement Ratio (in DBH inches)
34" — < 48" DBH	1:1
48" — < 60" DBH	1.5: 1
60" DBH and greater	2:1

This replacement requirement, however, shall not apply when the Administrator has determined that [Section 4.01.14.A.4.b](#) of this Code is applicable. Replacement of a grand oak for these situations shall not exceed 20 percent of the DBH trunk diameter unless a lesser amount is appropriate as determined by the Administrator.

8. Where possible, replacement trees, as defined in this Code, shall be planted on the same property for which the Natural Resources Permit is granted. Each replacement tree shall be a species that is suited to the environment in which it will be planted. The use of native species shall be encouraged.
9. The recommended transplanting techniques described in Tree and Shrub Transplanting Manual, International Society of Arboriculture, shall be used as a guideline in determining if a tree can be feasibly transplanted.
10. Land alteration and construction activities shall be approved within the dripline of a tree to be retained on the site provided design techniques are used that minimize damage to the root system of the tree (e.g., retaining walls, tree wells, root aeration devices, pervious pavers, pervious concrete, green space, as appropriate). Where it is not practical for underground utility lines to be routed around the dripline, tunneling shall be employed to route the lines through this area.
11. In the urban and suburban land use categories where a natural plant community exists along the Little Manatee River, clearing and filling of native vegetation shall be prohibited within 50 feet of the wetland jurisdictional line established by the EPC or within 100 feet of the mean and ordinary high water line, whichever is greater, except when reasonable property use is not possible.
12. For lands along rivers and creeks in I-75 Planned Development zoning districts (IPD-1, IPD-2, IPD-3) of the I-75 Corridor, see [3.02.04 Y](#).
13. The American National Standards Institute (ANSI) A 300 Pruning Standards, referenced as Section 4.1.6.1.8 (Natural Resources) of the Development Review Manual are the standards to be utilized for all tree pruning activities. Failure to comply with the ANSI A 300 Pruning Standards may result in prosecution under this Code for effective tree removal unless a land alteration permit authorizing the removal has been obtained.
14. Pruning of a grand oak, with the exception of minor pruning, is prohibited unless conducted in accordance with the ANSI A 300 Pruning Standards as performed by an Arborist certified by the International Society of Arboriculture (ISA) or a Registered Consulting Arborist with the American Society of Consulting Arborists (ASCA). A notarized affidavit affirming an ISA Certified Arborist or an ASCA Registered Consulting Arborist will conduct or onsite supervise the pruning shall be submitted to the County prior to the pruning of a grand oak. An ISA Certified Arborist or an ASCA Registered Consulting Arborist contracted by a property owner to prune a grand oak shall assume full responsibility for all pruning activities determined in noncompliance with standards specified within the Land Development Code.

B. Construction Standards

1. No attachments other than flagging or similar material identifying protected trees shall be attached to trees designated to remain on the site.
2. It shall be unlawful to undertake the following activities within the dripline of a tree remaining on the site, unless otherwise approved by the Administrator: remove vegetation, except by hand, or place soil deposits, debris, solvents, construction material, machinery or other equipment of any kind, or undertake any other land

alteration or construction activity which would cause the tree to die within a period of two years.

3. The compaction, filling or removal of soil or the use of concrete, asphalt or other paving material shall be prohibited within the dripline of a tree that is to remain on the site, unless otherwise approved by the Administrator.
4. All tree roots existing within approved improvement areas and originating from a protected tree shall be severed clean at the boundary of the area to be preserved around the tree.
5. Trimming of protected trees shall be undertaken in accordance with the American National Standards Institute (ANSI) A 300 Pruning Standards.

C. Credit

1. Healthy, transplantable trees, which otherwise would be destroyed to construct improvements, shall be credited as replacement trees if the transplanting method is approved by the Administrator.
2. Where a minimum number of trees is required to meet the Landscaping Regulations, credit shall be given for the retention of existing trees as specified in [6.07.02](#)
3. Existing trees less than five inches DBH in size to be retained on the site after development shall be credited toward any required replacement trees, provided the existing trees are a minimum of one inch DBH, Florida Grade #1 or better quality, and protected from any land alteration and construction activities which would cause the health of the trees to decline.

D. Tree Donation

1. When a permit is issued for tree removal, the Administrator may, with the owner's permission, arrange for the relocation the tree at the County's expense to County-owned property for replanting, either for permanent use at the new location, or for future use on other property owned by Hillsborough County.
2. If the Administrator does not elect to have any such tree relocated, the Administrator may give any city within Hillsborough County the right to acquire the tree at the city's expense for relocation within the city's incorporated area for public use.
3. Relocation shall be accomplished within 15 working days of permit issuance, unless it is necessary to root prune the tree to assure its survival, in which case relocation shall be accomplished within a suitable time frame agreed to by all parties.

E. Removal of Invasive Plant Species

1. The invasive plant species listed below shall be removed during the development process:
Schinus terebinthifolius (Brazilian Pepper Tree)
Melaleuca quinquenervia (Cajaput or Melaleuca)
Casuarina spp. (Australian Pine)
2. Removal of these species from developable uplands, and all buffers and setback areas landward of required erosion control devices, if any through hand, mechanical and/or chemical means, from a site development or subdivision project shall be completed prior to issuance of the Certificate of Occupancy or acceptance of Improvement Facilities, respectively, as specified in the Natural Resources Permit. Removal shall only be required for the portion of the project described in the Natural Resources Permit. However, removal is not required on a subdivision lot(s) when the lot(s) will not be altered, with the exception of utilities installation, during the

construction of Improvement Facilities. Removal shall occur at the time of building construction.

3. When conservation or preservation areas exist within the project boundaries and contain a significant amount of the above listed invasive plant species, as determined by the County and the EPC, the County Administrator shall allow the developer to reduce the required conservation/preservation area setback up to 50 percent, or reduce the tree replacement requirement as defined in [4.01.06](#) A six up to 50 percent, provided the developer removes the invasive plant species from the conservation/preservation area. Pools, as specifically approved, may be constructed up to five feet from a conservation area and up to 15 feet from a preservation area.
4. As determined by the Administrator, through consultation with the appropriate regulatory agencies, removal may not be required if such removal procedures would cause adverse impacts to the environment. Adverse impacts may include disturbance of listed plant or animal species, degradation of any natural plant communities or promotion of soil erosion by wind or water.

(Ord. No. 97-18, § 2, 12-18-97; Ord. No. 01-26, § 2, 9-12-01; Ord. No. 03-9, § 2, 6-5-03; Ord. No. 04-27, § 2, 6-10-04)

Sec. 4.01.07. - Environmentally Sensitive Areas—Wetlands and Natural Water Bodies

A. Activities Prohibited, Allowed

1. Land alteration activity which destroys, reduces, impairs or otherwise adversely impacts a wetland or natural body of water shall be prohibited unless specifically approved by the EPC, in accordance with EPC Rule Chapter 1-11, or, in the case of seawalls, such other regulatory agencies as are empowered by law to authorize such activities.
2. Land alteration activity which destroys, reduces, impairs or otherwise adversely impacts a wetland within 500 feet of the Hillsborough River, Alafia River, or Little Manatee River shall be prohibited, regardless of any other regulatory agency authorization. The 500 feet shall be measured from the jurisdictional line established by the EPC for wetlands and natural waterbodies.
3. Wetlands and natural water bodies to be protected from development shall be designated Conservation Area or Preservation Area, as appropriate, on all development plans and plats. (See definition of environmentally sensitive areas.)

B. Setbacks

1. Setbacks shall be required from those Conservation and Preservation Areas listed as wetlands or natural water bodies in the definition of environmentally sensitive areas. Setbacks shall be a minimum of 30 feet for Conservation Areas and a minimum of 50 feet for Preservation Areas. Wider setbacks may be required by the EPC depending on the environmental sensitivity of the area and the intensity of the development proposed adjacent to the area. For example, a wider setback may be required for a large excavation proposed adjacent to a wetland in order to prevent dewatering of the wetland. Narrower setbacks may be allowed to preserve trees within the portion of the parcel to be developed, if specifically approved by the Administrator and the EPC.
2. Notwithstanding [Section 4.01.07](#) B.1., no setback shall be required landward of a seawall which is constructed pursuant to the approval of appropriate regulatory agencies (see definition of seawall), with the exception of a seawall permitted along a

lake. Pursuant to the description of a lake, as defined by this Code, setbacks shall be required in accordance with [Section 4.01.07](#).B.1.

3. Removal of native vegetation within a required setback is discouraged and may be restricted or prohibited by the EPC to protect the wetland or water body. The EPC may require that all or a portion of the vegetation within a setback be retained to provide natural filtration of surface water runoff or to prevent soil erosion and downstream sedimentation. For example, the retention of the vegetation along the bank of an incised stream or river may be required.
4. No filling, excavating or placement of permanent structures or other impervious surfaces shall be allowed within a required setback except for the installation of a sprinkler system, utility line, or landscaping; or except as specifically approved for the construction of a road essential for access, wetland recreation access no greater than 20 feet wide, construction of a stormwater retention or detention basin or other stormwater-related structure, construction of a boardwalk or other stilted structure, grade finishing to provide a gradual slope between the setback line and the environmentally sensitive area, the limited use of semi-pervious paving material, construction of a retaining wall, recreational trail, or golf cart path; or except as specifically approved for construction of a swimming pool provided there is no encroachment within 15 feet of a Conservation Area and 25 feet of a Preservation Area.

(Ord. No. 04-27, § 2, 6-10-04)

Sec. 4.01.08. - Environmentally Sensitive Areas—Uplands Providing Significant and Essential Wildlife Habitat; General Provisions

- A. Sections [4.01.08](#) through [4.01.13](#) provide standards and guidelines for the protection of upland significant wildlife habitat, generally, as well as upland habitat for endangered and threatened species and species of special concern, (i.e., upland essential wildlife habitat).
- B. Onsite preservation shall be considered the most desirable alternative to protect upland habitat and plant and wildlife species. However, in some cases as specified in these regulations and determined by the Administrator in cooperation with the Florida Game and Freshwater Fish Commission and, when appropriate, the U.S. Fish and Wildlife Service, the protection of upland wildlife habitat or upland habitat for endangered or threatened species or species of special concern will be best accomplished through offsite preservation.
- C. Natural upland areas within a proposed development project shall count toward meeting the requirements for onsite preservation only when such natural areas meet the applicable onsite preservation criteria.
- D. When multiple offsite preservation acreage requirements are applicable to the same onsite habitat, only the requirement for the largest amount of preservation acreage for that habitat shall apply.
- E. Nothing in these sections shall limit the ability of the Administrator to address other resource issues in the upland portions of a proposed development project for which standards are contained in this Code.

Sec. 4.01.09. - Environmentally Sensitive Areas—Upland Significant Wildlife Habitat

- A. In Hillsborough County, most of the original upland wildlife habitat has been replaced with urban, suburban or agricultural development. The remaining upland habitat is comprised of

xeric and mesic natural plant communities which are either uncommon, scarce, occur in very restricted geographic areas, or have few high quality sites remaining. Protection of those xeric and mesic habitats which constitute significant wildlife habitat is necessary to retain habitat diversity and wildlife corridors and to maintain healthy and diverse populations of wildlife.

B. Identification of Upland Significant Wildlife Habitat

1. Uplands which potentially constitute significant wildlife habitat are those natural plant communities listed as xeric or mesic habitats in this section and mapped on the County's Geographical Information System as significant wildlife habitat.
2. Xeric habitats are:
 - Sandhill
 - Sand Pine Scrub
 - Xeric Oak Scrub
 - Scrubby Flatwoods
 - Xeric Hammock
3. Mesic habitats are:
 - Dry Prairie
 - Pine Flatwoods
 - Mesic Hammock
4. If the Administrator demonstrates that an unmapped area meets the significant wildlife habitat definition and size/width criteria as described in the Significant Wildlife Habitat Guidelines of the Development Review Procedures Manual, Section 4.1.6 the Administrator shall notify affected property owners of the public hearing at which the Board shall consider amending the GIS map to designate the area as land which potentially constitutes significant wildlife habitat.
5. Determination of the existence, type, and extent of any upland significant wildlife habitat shall be made by the Administrator by conducting an evaluation upon request or upon submission of an application for a Natural Resources Permit. This determination shall be refutable upon a showing of clear and convincing evidence to the contrary.

C. Protection of Upland Significant Wildlife Habitat

1. The developer shall protect xeric and mesic habitats which constitute significant wildlife habitat. Protection of xeric habitat shall consist of preservation of all xeric habitat acreage existing on the property, up to and including fifty (50) percent of the upland area onsite. Preservation of mesic habitat shall consist of preservation of all mesic habitat acreage existing on the property, up to and including twenty-five (25) percent of the upland area onsite. However, in no case shall the preservation requirement exceed fifty (50) percent of the upland area onsite. If the application of the provisions of this paragraph would prevent the construction, operation, or maintenance of a utility corridor, the preservation requirements of this paragraph shall be adjusted the minimum amount necessary to accommodate such activities, provided such activities are designed and conducted in a manner to minimize their adverse impacts to significant wildlife habitat.
2. Preservation of significant wildlife habitat shall be required where necessary to prevent fragmentation of a wildlife corridor. Significant Wildlife Habitat Guidelines, as set forth in the Development Review Procedures Manual, Section 4.1.6 shall be used as a guide for identifying wildlife corridors. The factors to consider when determining

minimum corridor widths described in the Development Review Procedures Manual, shall be used as a basis for determining the area of significant wildlife habitat to preserve to prevent fragmentation of a wildlife corridor.

3. New road rights-of-way shall be routed to avoid traversing significant wildlife habitat, unless there is no feasible and prudent alternative and the roadway design incorporates design features for the safe passage of wildlife, as described in 5., below.
4. Improvements to existing roads (i.e., road reconstruction or widening) within significant wildlife habitat shall incorporate design features for the safe passage of wildlife, as described in 5., below.
5. Design features for the safe passage of wildlife shall be appropriate for the wildlife species expected to utilize the crossing and shall be designed in accordance with the recommendations of the Florida Game and Freshwater Fish Commission.
6. Xeric and mesic habitats to be preserved shall meet the onsite preservation provisions of 4.01.12
7. Onsite preservation shall be required only when sufficient management capabilities exist to maintain or restore the habitat to a high quality natural plant community or communities, in accordance with the Habitat Management Guidelines set forth in the Development Review Procedures Manual. The Administrator's determination of the feasibility of onsite management shall be refutable upon a showing of clear and convincing evidence to the contrary.
8. When the amount of significant wildlife habitat to be preserved onsite cannot be sufficiently managed, protection shall consist of preservation offsite of habitat acreage equal to the amount of habitat that would have been preserved onsite according to 1., above, and shall meet the offsite preservation provisions of 4.01.13

(Ord. No. 01-26, § 2, 9-12-01)

Sec. 4.01.10. - Environmentally Sensitive Areas—Upland Essential Wildlife Habitat

A. Intent and General Provision

1. This section provides standards and guidelines for the protection of upland habitat for populations of endangered and threatened species and species of special concern in Hillsborough County. It is intended that implementation of the provisions in this Section preserve upland essential wildlife habitat based on the listed species' habitat needs, in order to maintain viable populations of the listed species.
2. New road rights-of-way shall be routed to avoid traversing essential wildlife habitat, unless there is no feasible and prudent alternative and the roadway design incorporates design features for the safe passage of wildlife. Design features for wildlife crossings shall be appropriate for the wildlife species expected to utilize the crossing and shall be designed in accordance with the recommendations of the Florida Game and Freshwater Fish Commission.

B. Listed Animal Species

1. When a listed animal species' essential habitat occurs onsite, the developer shall protect the habitat by locating and designing proposed improvements to ensure no adverse impact to a viable population, nesting pair, or nesting colony which would prevent such population, nesting pair, or nesting colony from being maintained onsite, based on the Listed Species Guidelines in the Development Review Procedures

Manual, Section 4.1.6. However, it is not the intent of this provision to preclude the reasonable use of a lot or parcel consistent with this Code.

2. The Administrator shall presume that a listed animal species' essential habitat occurs onsite whenever a listed animal species has been previously documented onsite; or, upon evaluation of the property, the Administrator determines that the land by itself, or in combination with offsite lands, meets the minimum habitat needs for a viable population of a listed animal species, as specified in the Listed Species Guidelines in the Development Review Procedures Manual; or, upon conducting an onsite inspection of the property, the Administrator observes evidence of a listed animal species on the property. This presumption shall be refutable upon a showing of clear and convincing evidence to the contrary.
3. Protection of a listed animal species' essential habitat shall consist of onsite preservation of the habitat, based on the listed animal species' habitat needs as specified in the Listed Species Guidelines in the Development Review Procedures Manual, and shall meet the onsite preservation provisions of [4.01.12](#)
4. Onsite preservation shall be required when the site is supporting by itself, or in combination with offsite lands, a viable population, nesting pair, or nesting colony of a listed animal species and sufficient management capabilities exist to manage the habitat to maintain the viable population, nesting pair, or nesting colony of the listed animal species. The Administrator's determination of a viable population of a listed animal species and the feasibility of onsite management of the listed species essential habitat shall be refutable upon a showing of clear and convincing evidence to the contrary.
5. When the amount of essential wildlife habitat to be preserved onsite cannot be sufficiently managed, protection shall consist of preservation offsite and shall meet the offsite preservation provisions of [4.01.13](#)
6. The listed animal species covered by these provisions are listed in the Listed Species Guidelines in the Development Review Procedures Manual.

C. Listed Plant Species

1. When a listed plant species' essential habitat occurs onsite, the developer shall protect the habitat of the listed plant species by locating and designing proposed improvements to maintain the plants onsite, based on the Listed Species Guidelines set forth in the Development Review Procedures Manual. However, it is not the intent of this provision to preclude the reasonable use of a lot or parcel consistent with this Code.
2. The Administrator shall presume that a listed plant species' essential habitat occurs onsite whenever a listed plant species has been previously documented onsite; or, upon conducting an onsite inspection, the Administrator observes a listed plant species on the property. This presumption shall be refutable upon a showing of clear and convincing evidence to the contrary.
3. Protection of a listed plant species' essential habitat shall consist of onsite preservation of the plants, based on the listed plant species' habitat needs set forth in the Listed Species Guidelines in the Development Review Procedures Manual, and shall meet the onsite preservation provisions of [4.01.12](#)
4. Onsite preservation shall be required when sufficient management capabilities exist to maintain the plants onsite. The Administrator's determination of the feasibility of onsite management shall be refutable upon a showing of clear and convincing evidence to the contrary.

5. When the amount of essential wildlife habitat to be preserved onsite cannot be sufficiently managed, protection shall consist of preservation offsite, and shall meet the offsite preservation provisions of 4.01.13
6. The listed plant species covered by these provisions are listed in the Listed Species Guidelines in the Development Review Procedures Manual.

(Ord. No. 01-26, § 2, 9-12-01)

Sec. 4.01.11. - Natural Preserves

- A. Land owned by the public or by a private, non-profit conservation organization and held for natural preservation purposes shall be protected from any adjacent development that would adversely impact the lands or interfere with the stated habitat management and conservation use objectives of that property, including prescribed burning.
- B. For development proposed adjacent to a publicly owned natural preserve, compatibility shall be ensured through a project compatibility plan, reviewed and approved by the agency managing the publicly owned lands and required as a condition of granting a Natural Resources Permit. The project compatibility plan shall be proposed by the developer and approved by the managing agency during the development review process. The preparation of a project compatibility plan should be a cooperative effort between the agency managing the publicly owned land and the developer of the adjacent property.
- C. For development proposed adjacent to a private, nonprofit natural preserve, compatibility shall be ensured through a project compatibility plan, reviewed and approved by the Administrator and required as a condition of granting the Natural Resources Permit. In its review of the project compatibility plan, the Administrator shall consider the recommendations of the private, non-profit conservation organization holding title to the land. The project compatibility plan shall be proposed by the developer and approved during the development review process. The preparation of a project compatibility plan should be a cooperative effort between the nonprofit conservation organization holding title to the natural preserve and the developer of the adjacent property.

Sec. 4.01.12. - Onsite Preservation

- A. Site Selection
Where alternative onsite preservation sites exist within a development, the site or sites selected for onsite preservation shall be the best suited to likely maintain a viable population or natural plant community(ies). The selection shall be based upon the following:
 1. Protectability and manageability of the site;
 2. The size and shape of the site. Emphasis should be on not creating enclaves of development or areas fragmented by development; and, as specified in the Significant Wildlife Habitat Guidelines and Listed Species Guidelines set forth in the Development Review Manual, on providing, where appropriate, adequate buffers from the secondary impacts of development and adequate wildlife corridors.
 3. The contiguity of the site with significant or essential wildlife habitat offsite;
 4. The existing species population sizes at the site;
 5. The life history requirements of the species involved;
 6. The proximity and accessibility of the site to other populations of the same species; and
 7. The compatibility of preservation of the site with adjacent land uses.

B. Preservation Methods

1. Onsite preservation, including the establishment of any required buffers, shall be accomplished through the designation of the preserved areas as Conservation Area or Preservation Area, as appropriate, on all development plans and plats. (See definition of environmentally sensitive areas.)
2. Additionally, the applicant shall submit, or request the Administrator to assist in the preparation of, a management plan for the area to be preserved. The management plan shall ensure the continued, adequate and appropriate management of the site and the continued protection of the site from adverse impacts, including the secondary impacts of development, in accordance with the Habitat Management Guidelines or Listed Species Guidelines in the Development Review Manual. The management plan shall designate management responsibility. At the option of the landowner, habitat management shall be the landowner's responsibility or the responsibility of Hillsborough County, or of any other land conservation agency or organization that accepts the responsibility in lieu Hillsborough County. The management plan shall be reviewed and approved prior to the issuance of a Natural Resources Permit.
3. A landowner may request that Hillsborough County accept a transfer of title (by sale or donation) for the preserved area or a dedication of a conservation easement over the preserved area provided that any conservation easement offered by the landowner meets the requirements of Section 704.06, F.S.

Sec. 4.01.13. - Offsite Preservation

The offsite preservation requirement may be fulfilled either directly by preserving land offsite or indirectly by contributing to an offsite preservation land bank, as provided below.

A. In-kind Preservation

1. Offsite significant wildlife habitat preservation sites, pursuant to the requirements of 4.01.09, shall be the same type of habitat (i.e, xeric or mesic) or land which can be restored to the same type of habitat as the natural plant community being adversely impacted onsite by development.
2. Offsite preservation sites for listed species shall be biologically manageable and appropriate habitat for the wildlife or plant species requiring protection or land which can be restored to such habitat. An offsite preservation site shall be acre-for-acre compensation for the essential wildlife habitat being adversely impacted onsite by development.

B. Site Selection

1. The location of offsite preservation sites shall be within Hillsborough County.
2. Offsite preservation sites shall meet all appropriate acquisition, preservation, restoration, habitat suitability, manageability, size, and other provisions of this Section (4.01.13). Such lands may be (1) selected from a list of approved land bank sites, (2) sites composed of additions of land to existing publicly managed areas held for conservation purposes, such as State or County parks or preserves, or (3) other suitable sites recommended for preservation or restoration by a State or local governmental land conservation agency. Alternatively, the developer may propose another site within an ecosystem or river basin in proximity to the habitat being adversely impacted onsite by development. The alternative site shall be subject to review and approval pursuant to the criteria in this Section (4.01.13).
- 3.

In determining whether the selection of a particular offsite preservation site is appropriate, the Administrator shall consider the overall habitat suitability or restoration suitability, if applicable; the life history requirements of any species being protected; the protectability of the site; the manageability of the site; the size of the site; and recommendations concerning the site from the Florida Game and Freshwater Fish Commission and other appropriate agencies.

4. When the offsite preservation requirements apply to a listed species' essential habitat, priority shall be given to selecting a site which can be restored to support the listed species.

C. Preservation Methods

1. Offsite preservation sites shall be for the purpose of restoring (if applicable), preserving, and maintaining natural areas in perpetuity.
2. The developer shall meet the offsite preservation acreage requirement through one of the following methods:
 - a. Land Acquisition. The developer may acquire and transfer fee simple title of an appropriate offsite preservation site to a land conservation governmental agency or private, non-profit land conservation organization; or
 - b. Contribution to an Offsite Preservation Land Bank. The developer may contribute to an offsite preservation land bank based upon the land bank's actual cost of acquiring in-kind preservation lands, plus cost of restoration, if any, plus estimated total cost of management during the life of the land bank, divided by applicable acreage, multiplied by the carrying costs; or
 - c. Conservation Easement. The developer may acquire through fee simple purchase an appropriate offsite preservation site and establish a conservation easement in favor of the Hillsborough County or other land conservation governmental agency or private, non-profit land conservation organization in accordance with the requirements of Section 704.06, F.S. When a developer chooses this option, a management plan shall be developed in cooperation with the landowner which stipulates the limitations on the use of the land and identifies the habitat management activities and assignments of responsibility.

D. Timing

The Natural Resources Permit shall specify the acreage and location of the offsite preservation site, the cost and timing of any monetary contributions or offsite acquisitions, the ownership and party responsible for management of the offsite preservation site, the location of any onsite development, including land alteration and construction activities; and shall contain a requirement that any significant or essential wildlife habitat on the project site, for which offsite preservation is being provided, shall not be disturbed or adversely impacted prior to meeting the offsite preservation requirements.

Sec. 6.08.04. - Unusually Tall Structures

Unless specifically stated otherwise elsewhere in this Code concerning height, unusually tall structures that are principal structures in themselves, such as high voltage transmission line towers, telephone or electronic relay or transmission towers; grain elevators, silos and other such agricultural uses; and similar principal structures, may only exceed the height limitations established for the district wherein they are proposed for relocation following review by the Administrator who may only grant the Permit where he finds:

- A. That the proposed structure is not located on property zoned SPI-AP, nor would it result in restriction or interference with air traffic or air travel to or from any existing or proposed airport;
- B. That the proposed structure is consistent with the existing surrounding uses, and is compatible with the existing neighborhood development;
- C. That the proposed structure is consistent with any adopted or projected development plan for the area;
- D. That the proposed structure is not detrimental to the existing or proposed use of any neighboring property, and does not unreasonably restrict the free flow of light, sunlight and air to those properties.

(Ord. No. 10-26, § 2, Exh. A(10-0743), eff. 2-11-11)

HILLSBOROUGH COUNTY
LAND DEVELOPMENT REGULATIONS

ORDINANCE

03-29



**STATE OF FLORIDA
DEPARTMENT OF STATE**

JEB BUSH
Governor

GLEND A. HOOD
Secretary of State

October 13, 2003

Honorable Richard Ake
Clerk to Board of Commissioners
Hillsborough County
Post Office Box 1110
Tampa, Florida 33601

Attention: Judith M. Grose, Senior Manager

Dear Mr. Ake:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated October 9, 2003 and certified copy of Hillsborough County Ordinance No. 03-29, which was filed in this office on October 10, 2003.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/mp

BUREAU OF ADMINISTRATIVE CODE • DIVISION OF ELECTIONS
The Collins Building, Room L43 • 107 W. Gaines Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6270 • Facsimile: (850) 245-6282 • WWW: <http://www.dos.state.fl.us>
E-Mail: DivElections@mail.dos.state.fl.us

ORDINANCE NO. 03-29

AN ORDINANCE AMENDING THE HILLSBOROUGH COUNTY UTILITY ACCOMMODATION AND RIGHTS-OF-WAY USE ORDINANCE; REQUIRING A SUPPLEMENTAL LARGE FACILITIES SITING PERMIT; REQUIRING PUBLIC NOTICE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Hillsborough County (hereinafter the Board) adopted the Hillsborough County Utility Accommodation and Rights-of-Way Use Ordinance (Ordinance No. 92-22); and

WHEREAS, Ordinance No. 92-22 created uniform guidelines, standards, and procedures for work performed within Hillsborough County's rights-of-ways (and required a permit for said work) in order to protect the public health, safety and general welfare of the residents of the County; and

WHEREAS, to better protect the public health, safety and general welfare of the residents of the County, the Board desires to adopt an ordinance amending Ordinance No. 92-22 to require additional provisions applicable to rights-of-way use permits applications which include large facilities.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY THIS _____ DAY OF _____, 2003.

SECTION 1. SUPPLEMENTAL PERMIT REQUIREMENTS

Add new:

SECTION 8. SUPPLEMENTAL PERMIT REQUIREMENTS FOR LARGE FACILITIES IN THE RIGHTS-OF-WAY.

- A. In addition to the requirements contained herein and in the Utility Accommodation Guide and Rights-of-Way Use Procedures Manual (UAG) the provisions of this section are applicable to all rights-of-way use permit applications which include large facilities. Large facilities are defined as facilities which when installed will exceed seventy-five (75) feet in height or poles greater than twenty-four (24) inches in diameter at the ground line. Facilities include any electric, telephone, broadcast, cable, or other communications or utility services poles, towers or other similar structures, but do not include County traffic-related facilities.
- B. The installation of large facilities will require the application and the granting of a Supplemental Large Facilities Permit (SLF Permit). However, said permit shall not be required:
- (1) When all facilities included in an application will be located adjacent to roadways with four (4) or more lanes as identified in the Metropolitan Planning Organization's most current Hillsborough County 2025 Highway Cost Affordable Number of Lanes Map;
 - (2) When all facilities included in an application will be located adjacent to industrial or commercially zoned or industrial or commercially developed areas;

- (3) When rights-of-way work only involves maintenance, emergency repair, or replacement of existing facilities provided there are no excavations within the paved roadway area and no increase in height or width of those facilities. This replacement section does not apply to facilities permitted on or after May 19, 2003 (such as Tampa Electric's Juneau Loop Project through the Egypt Lake area), unless such facilities are issued a permit pursuant to this ordinance; or
 - (4) When installation is a temporary response to accommodate a government or utility construction project (temporary installation shall not exceed 60 days beyond completion of the portion of the project requiring the temporary response).
- C. The SLF Permit Application shall include an analysis of alternative routes or locations that document the relative superiority of the proposed route or location with respect to the minimization of the extent of the adverse affects on surrounding residential development, parks, and historic properties. The SLF Permit application fee will be as provided by Board resolution.
- D. A SLF Permit Application may only be approved by the Board at a Public Hearing. Approval must be based on:
 - (1) Board consideration of an analysis by the Hillsborough County City-County Planning Commission staff as to whether the proposed installation is consistent with the Comprehensive Plan, and
 - (2) A finding by the Board that the location, placement, size, scale, and height of the proposed facilities are visually and aesthetically compatible with the established character of surrounding residential development and the adjacent roadway, or
 - (3) A finding by the Board that the location or route of the proposed facilities clearly

minimizes the extent of the adverse affects on surrounding residential development, parks, and historic properties, in comparison to other potential locations or routes.

E. The SLF Permit applicant shall publicize the Public Hearing(s) by:

- (1) Mailing written notice of the hearing to all residents and owners of property located within two hundred fifty (250) feet of the proposed location of the facilities, at least fourteen (14) days prior to the initial public hearing;
- (2) Mailing written notice of the hearing to all neighborhood associations any portion of the boundaries of which are within one mile of proposed location of the facilities, at least fourteen (14) days prior to each public hearing; and
- (3) Posting a sign at each proposed location of each facility identifying the height, width, type, and the material composition of the proposed facility, and information regarding the public hearing, at least fourteen (14) days prior to the initial public hearing.

SECTION 2. RE-NUMBERING OF SECTIONS.

Re-number current Sections 8 through 12 of Ordinance 92-22 to accommodate new Section 8.

SECTION 3. SEVERABILITY.

If any part of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or otherwise legally defective, such holdings shall not be construed to affect the remaining portions of this Ordinance. It is expressly declared by the Board that any such unconstitutional or otherwise legally defective part did not induce the enactment of this Ordinance, and that without such part, the remaining portions would have been enacted.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect upon filing with the Florida Department of State.

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, Richard Ake, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an ordinance adopted by the Board at its meeting of October 7, 2003, as the same appears of record in Minute Book 329, of the Public Records of Hillsborough County Florida.

WITNESS my hand and official seal this 9th day of October 2003.

RICHARD AKE,
CLERK OF CIRCUIT COURT



By: Julene W. Gregory
Deputy Clerk

APPROVED BY COUNTY ATTORNEY
AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
Assistant County Attorney

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-10
NOISE POLLUTION**

1-10.00	Intent
1-10.01	Definitions
1-10.02	(Repealed)
1-10.03	Sound Level Limits
1-10.04	Exemptions
1-10.05	Competitive Motor Vehicle Events
1-10.06	Waiver or Variance
1-10.07	Shooting Ranges (Repealed)
1-10.08	Methodology

1-10.00 INTENT

Chapter 1-10 is intended to regulate noise pollution originating from stationary sources and traveling outdoors to other receiving properties. It is not the intent of this rule to regulate noises under all circumstances.

Section History - new September 18, 2008 and Effective September 18, 2008

1-10.01 DEFINITIONS

(1) Definitions contained in Chapter 84-446, Laws of Florida, as amended, (EPC Act) apply to this rule.

(2) The following specific definitions shall apply to this rule:

(a) **A-Weighted Sound Level** - The sound pressure level decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dBA.

(b) **Background Sound Pressure Level** – The equivalent sound pressure level of all encompassing noise present in the environment in the absence of sound from the source in question.

(c) **Commercial Property** - All property which is used primarily for the sale of merchandise or goods, or for the performances of a service, or for office or clerical work.

(d) **Decibel (dB)** - A unit of measurement of sound pressure equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the

sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

(e) **East Bay Raceway** – A one-third ($\frac{1}{3}$) mile dirt track located at 6311 Burts Road in Hillsborough County.

(f) **Emergency** - Any occurrence or set of circumstances involving actual or imminent physical trauma, natural resource damage, or property damage which demands immediate action.

(g) **Emergency Response** - Any action performed for the purpose of preventing or alleviating an emergency, including training exercises related to emergency response.

(h) **Industrial Property** - Any property which is used primarily for manufacturing, processing, or distribution.

(i) **Leq** – Abbreviation for the equivalent sound pressure level which means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying sound.

(j) **Octave Band** - All of the components in a sound spectrum whose frequencies are between two sine wave components separated by an octave.

(k) **Public Right-Of-Way** - Any street, avenue, boulevard, highway, sidewalk, or alley or similar place normally accessible to the public which is owned or controlled by a government entity.

(l) **Real Property Line** - An imaginary line along the ground surface, and its vertical plane extension, which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person, excluding intrabuilding real property divisions.

(m) **Residential Property** - All property designed for people to live and sleep, and which is not commercial or industrial as defined in this rule, including but not limited to homes, dwellings, individual plots within a mobile home park, hospitals, shelters designed for human habitation, schools, nursing homes, and parks that have sleeping accommodations. Residential property must be located (sited) in conformance with applicable county or municipal zoning and

land use provisions. For purposes of this rule, a legal non-conforming residential use is considered in conformance, and therefore residential property.

(n) **RMS (Root Mean Square) Sound Pressure** - The square root of the time averaged square of the sound pressure.

(o) **Sound** - An oscillation or alteration in pressure, stress, particle displacement, particle velocity, or other physical parameter, in an elastic medium; or, an auditory sensation evoked by the alterations described above. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

(p) **Sound Level** - The weighted sound pressure level obtained by the use of a metering characteristic and weighting scale as specified in American National Standards Institute specifications for sound level meters ANSI S1.4-1983 (R2006) or in successor publications or amendments, including but not limited to ANSI S1.4A-1985 (R2006). If the weighting employed is not indicated, the A-weighting shall apply.

(q) **Sound Level Meter** - A device used to measure sound pressure level, or weighted sound pressure level, or octave band sound pressure level, and this device is of Type 2 or better, as specified in the American National Standards Institute Publication S1.4-1983 (R2006) or its successor publication or amendments, including but not limited to ANSI S1.4A-1985 (R2006).

(r) **Sound Pressure** - The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of energy, which accompanies the passage of a sound wave.

(s) **Sound Pressure Level** - Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals. The sound pressure level is denoted SPL and is expressed in decibels.

(t) **Shooting Range** - An area designated and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar type of sport, law enforcement, or military shooting.

(u) **Stationary Source** - Any facility or

activity that has the potential to emit sound and exists at or is designed to be operated as a unit at a fixed location, although parts of the source may move while the source is in operation. This includes but is not limited to all commercial and industrial facilities, e.g., remote control vehicle facilities and relocatable rock crushing operations.

(v) **Unamplified Sound** - Sound that is not amplified by any mechanical or electronic means.

Section History - amended September 18, 2008 and Amendment Effective September 18, 2008

1-10.03 SOUND LEVEL LIMITS

(1) Sound levels limits pursuant to this rule shall be measured with a sound level meter as an Leq for a 10-minute period of time. Sound levels which exceed the limits set forth in this rule for the receiving land when measured at or within the property line of the receiving land, or as measured at the locations described in 1-10.03(1) or 1-10.03(4), are a violation of this rule. The point of sound level compliance for receiving residences or other sleeping accommodations on agricultural and park land shall be measured at a distance no greater than 150 feet from the receiving residence or sleeping accommodation.

(2) **Sound Level Limits.** Unless otherwise specified in this rule, the below limits in this subsection and sub-section 1-10.03(4) shall be measured using the A-Weighted Sound Level (dBA).

Receiving Land Use Category	Time	Sound Level Limit, dBA
Residential	7 a.m.-10 p.m.	60
	10 p.m.- 7 a.m.	55
Commercial	At all times	65
Industrial	At All Times	70

(3) **Octave Band Residential Sound Level Limit.** In addition to the sound level limits of 1-10.03(2), for any source of sound which impacts on residential property, the maximum allowable

sound level limit for the individual octave bands whose centers are 63, 125, and 250 Hertz (Hz) shall not exceed the below listed decibel levels, measured as an Leq for a 10-minute period of time:

Octave Band	Time	Sound Level Limit - dB
63 Hz	7 a.m.-11 p.m.	70
63 Hz	11 p.m.- 7 a.m.	65
125 Hz	7 a.m.-11 p.m.	64
125 Hz	11 p.m.- 7 a.m.	59
250 Hz	7 a.m.-11 p.m.	57
250 Hz	11 p.m.- 7 a.m.	53

(4) Air Conditioning and Air Handling Equipment, Pumps and Compressors Sound Level Limit. No person shall operate or cause to be operated any air conditioning or air-handling equipment, or any pumps and compressors, in such a manner as to exceed 55 dBA as an Leq for a 10-minute period of time, measured from a distance of 40 feet or more from the source across a residential real property line at any time of the day or night.

(5) The Florida State Fairgrounds is subject to the sound level limits in this section and to all other provisions of this rule.

(6) No person shall generate, cause, let, permit, allow, or allow to continue any violation of this rule. If the same type of violation continues after the property owner is notified by the Environmental Protection Commission (EPC) or a law enforcement officer, then the property owner, even if he or she did not generate sound, will be deemed to have allowed the violation to continue.

Section History – amended September 18, 2008 and Amendment Effective September 18, 2008

1-10.04 EXEMPTIONS

Any of the following exempt activities or sources listed in this section remain subject to any other laws, regulations, codes or ordinances. The following activities or sources are exempt from

the requirements of this rule and the EPC's noise nuisance laws:

(1) The emission of sound from a person or any mechanical device, apparatus, or equipment for the purpose of alerting persons to the existence of an emergency, or sounds generated in the performance of emergency response duties, including training.

(2) The unamplified sound of the human voice.

(3) The unamplified sounds of animals.

(4) Except as conditioned below, reasonable operation of equipment or conduct of activities related to residential or agricultural communities, including but not limited to, lawn care and refuse collection. Commercial operation of motorized lawn, garden, or other outdoor maintenance equipment is exempt between the hours of 7 a.m. and 10 p.m.

(5) Sounds occurring at places of religious worship and related to those religious activities.

(6) Except where regulated elsewhere in this rule, events directly related to Gasparilla, New Year's Eve, Guavaween, the Super Bowl, the Strawberry Festival, the Hillsborough County Fair, all federal holidays, parades, competitive sporting events, and the two week Florida State Fair but for any concerts at the Amphitheatre during that same two weeks.

(7) Mobile sources, including but not limited to:

(a) motor vehicles, including recreational motorized vehicles, and their associated stereos or other sound generating devices attached to the vehicles. This does not include racing vehicles and racing venues addressed elsewhere in this rule, nor does it include slamming of dump truck tailgates or unloading of vehicles; and

(b) the operation of trains, ships, personal watercraft, and aircraft.

(8) Common carrier stations, including but not limited to bus stations, transit malls, train stations, ships' wharves and docks, and airports.

(9) Shooting ranges pursuant to section 823.16, F.S., discharge of firearms, and the shooting sounds associated with paintball facilities.

(10) Noise pollution generated by the Florida

Department of Transportation arising from activities at existing or future transportation facilities, or appurtenances thereto, on the State Highway System, pursuant to Section 335.02 (4), F.S.

(11) Construction activities occurring between the hours of 7 a.m. and 6 p.m. Monday through Friday, 8 a.m. and 6 p.m. Saturday, and 10 a.m. and 6 p.m. Sunday are exempt if reasonable precautions are taken to abate the noise pollution generated from those activities. Reasonable precautions shall include but not be limited to noise pollution abatement measures such as enclosure of the noise pollution source, use of acoustical blankets, and change in work practice. Construction activities occurring at all other times shall be subject to this Rule.

(12) Noise pollution originating from within a residential structure and its appurtenances.

(13) Noise pollution originating from entertainment or musical events in the Central Business District, the Ybor City Historic District, and the Channel District, as delineated in the City of Tampa Code of Ordinances.

(14) Athletic, musical, other school events, or practice for them, conducted under the auspices of public or private schools, but not limited to activities on school grounds.

Section History – amended September 18, 2008 and Amendment Effective September 18, 2008; amended 8/9/12 and effective 8/20/12.

1-10.05 COMPETITIVE MOTOR VEHICLE EVENTS

(1) Sound Level Limits -

(a) Sound levels from facilities holding competitive motor vehicle events shall be subject to the sound level limits of subsections 1-10.03(2) and (3), except for East Bay Raceway.

(b) Sound levels from competitive motor vehicle events at East Bay Raceway shall not exceed 78 dBA as an Lmax, measured with a sound level meter at or within receiving residential property.

(c) In the event East Bay Raceway adds a new racing event at its existing track, builds a new facility, or expands or relocates its existing racetrack then that new racing event and/or new,

relocated, or expanded facility is subject to the sound level limits in subsections 1-10.03(2) and (3).

(2) Authorization Required -

(a) Compliance with all applicable requirements of section 1-10.05 shall be demonstrated by completing a Competitive Motor Vehicle Events form provided by EPC staff and submitting it to the EPC Executive Director:

(1) prior to construction, alteration, or expansion of any competitive motor vehicle racing facility; and

(2) annually, by November 1 of each year for all racing activities planned for the following calendar year.

The Competitive Motor Vehicle Events form is maintained by the Air Management Division.

(b) Any racing facility submitting a complete Competitive Motor Vehicle Events form, including all requirements of this section, shall be eligible to operate unless the Executive Director makes a written decision of ineligibility within 45 days of receipt of the complete form, except new or modified race tracks will require a modeling demonstration as described in subsection 1-10.05(3)(a) be affirmatively approved by the Executive Director prior to operation or construction. Any incomplete form shall be returned to the applicant for further information, and the 45-day EPC review will restart upon Executive Director's receipt of the amended form. Any person aggrieved by the decision of the EPC Executive Director may challenge the decision pursuant to Section 9 of the EPC Act and Section 1-2.30, Rules of the EPC.

(3) General Requirements for All Motor Vehicle Racing Facilities.

(a) In addition to the form required above, no person shall begin construction or begin operation of a new racing facility, or begin alteration or expansion of a racing facility existing as of the date of this rule without first submitting a written demonstration of ability to comply with the sound level limits in Section 1-10.05(1)(a). The demonstration shall include

but not be limited to modeling by an acoustical expert to demonstrate compliance. The demonstration will be reviewed by EPC staff, and construction, alteration or expansion can not commence prior to approval by the Executive Director. The Competitive Motor Vehicle Events form shall be submitted in conjunction with the demonstration.

(b) All motor vehicles participating in racing events shall be inspected by designated raceway personnel prior to each race to ensure that appropriate sound-attenuating mufflers are being used during the racing event and all preliminary race activities. A written record of the following information shall be maintained: the date, time and place of inspection; the person performing the inspection; description of vehicle inspected; and results of the inspection.

(c) The Competitive Motor Vehicle Events form will include the following information for all races scheduled for the next calendar year:

(1) Name, address, and telephone number of the person, firm, corporation, or other entity responsible for the racing events.

(2) Name and telephone number of a responsible party who may be reached during all racing events.

(3) Location, dates and times of all racing events for that calendar year, including the beginning and ending times of the races, and the number and types of vehicles in the races.

(4) Descriptions of all measures, methods, and work practices used to reduce the volume of noise pollution generated by the racing events.

(5) Provisions for employee training, including familiarization with the requirements of this rule.

(6) Provisions for trackside and boundary noise pollution monitoring.

(d) All records of operations, inspections and noise pollution monitoring shall be retained on site for a minimum of two years and made available to EPC staff upon request.

(e) All racing facilities shall allow EPC personnel access to the premises at reasonable times to copy records, inspect or monitor the

operations to determine compliance with EPC rules.

(f) Any deviation from the hours of operation or dates of operation shall be reported to EPC staff within 24 hours of the occurrence.

(4) Specific Requirements for East Bay Raceway.

(a) During East Bay Raceway's current annual race event, which is not to exceed six consecutive weeks, the races shall end by 10:30 p.m. with a one-hour extension for delays.

(b) East Bay Raceway's regular season races on Friday and Saturday nights shall end by 11:30 p.m. with a thirty-minute extension for delays. Regular season Sunday races are for emergency make-up only and are allowed from 5 p.m. to 10:30 p.m.

(c) East Bay Raceway shall keep records of race stop times for each race day, and the number and types of vehicles participating in each event.

Section History – amended September 18, 2008 and Amendment Effective September 18, 2008.

1-10.06 WAIVER OR VARIANCE

Persons may apply for a waiver or variance to all or a portion of this rule by filing an application pursuant to section 1-2.50, Rules of the EPC.

Section History – amended September 18, 2008 and Amendment Effective September 18, 2008.

1-10.08 METHODOLOGY

EPC staff maintains standard operating procedures for measuring sound levels and analyzing them in accordance with the provisions of this rule. These procedures are not adopted by this rule and may be revised as necessary to address updated standards applicable to the measurement and analysis of sound levels.

Section History – new September 18, 2008 and Effective September 18, 2008.

Rule History:

Adopted 6/10/76

Amended 4/13/78

Amended 9/1/82

Amended 11/15/84

Amended 11/11/88

Amended 10/05/89

Amended 05/23/90

Amended 05/22/91
Amended 06/20/95
Amended 01/17/96
Amended 12/19/00
Amended 08/19/04
Amended via Circuit Court Ruling 02/25/05
Amended 09/18/08 and Effective 09/18/08
Amended 8/9/12 and Effective 8/20/12

APPENDIX 10.3.3

EXISTING CONDITIONAL USE PERMIT



IMPERIAL
P O L K C O U N T Y

DEVELOPMENT SERVICES
PHIL McLEMORE, DIRECTOR

P.O. BOX 2096
BARTOW, FL. 33830
813-534-6792

June 18, 1992

Stacy Frank
Tampa Electric Company
Corporate Counsel, Legal Department
Post Office Box 111
Tampa, FL 33601-0111

Dear Ms. Frank:

Attached please find a final copy of Conditional Use Permit 92-05 for the proposed Certified Electrical Power Generating Facility in southwest Polk County as adopted by the Polk County Board of County Commissioners on June 2, 1992.

We appreciate the cooperation and professionalism exhibited by Tampa Electric staff in providing all the information necessary for analysis of the application. We look forward to working with you through the Site Certification Process.

Sincerely,

A handwritten signature in cursive script that reads 'Phil McLemore'.

Phil McLemore
Director
Development Services

attachment

xc: BoCC
Mark Carpanini, County Attorney
Rob Anders, Planning Director
Tampa Electric Company, Vice President, Production
Tampa Electric Company, Vice President, Energy Resources

file: K:\...\DSM\certipp\cup92-05.flr

TAMPA ELECTRIC COMPANY
POLK POWER STATION
CONDITIONAL USE PERMIT

92-05

CONDITIONAL USE PERMIT 92-05 is approved this 2nd day of June, 1992, for TAMPA ELECTRIC COMPANY (TEC), a Florida corporation, by the BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY (COUNTY), a political subdivision of the State of Florida, based on the following determinations and subject to the following conditions:

DETERMINATIONS

A. TEC wishes to develop (in accordance with development plans as may be revised from time to time) electric power generating facilities together with appurtenant and supportive facilities, all as more particularly described in TEC's Application for Conditional Use Permit and supporting documentation provided by TEC to the County (the Project). Said electric power generating facilities, comprising 1,150 megawatts of capacity, are to be located at a site situated and being in Polk County, Florida, and legally described on Exhibit "A" attached hereto and made part hereof.

B. The Polk County Comprehensive Plan and Zoning Ordinance permit this type of development as proposed by TEC, subject to Conditional Use Permit approval for the Project at the Polk County Site.

C. TEC's Project will be evaluated further during proceedings under the Florida Electrical Power Plant Siting Act (PPSA), Chapter

403, Part II, Florida Statutes, in which Polk County may participate fully as a party and may raise questions or objections to the proposed plan of development. Certification issued under the PPSA for TEC's Polk Power Station constitutes the necessary approval for construction and operation of the Project (Development Plan). The certification is subject to a determination that land use and zoning are appropriate for the Project through the land use hearing required under the PPSA.

D. Documents certifying proper authorization for TEC to represent the current owners of the Polk County Site are attached hereto and incorporated herein as Composite Exhibit "B".

E. CUP 92-05 is hereby granted for TEC's Project subject to the following conditions.

CONDITIONS

I. EXISTING ACTIVITY

1. The current owners of the site of the Polk Power Station and their successors in interest may continue to conduct phosphate mining and related activities at the site without violating this CUP.

2. If TEC does not gain the necessary approval or permits required to commence construction of the Polk Power Station and/or TEC does not purchase the property on which to construct the Polk Power Station, then the conditions associated with and imposed by the CUP will be nullified and withdrawn and the property which is

the subject of this CUP will revert back to the zoning category and its associated conditions as existed before the approval of this CUP.

II. SITE AND DEVELOPMENT PLANS

CUP 92-05 shall be undertaken and carried out in accordance with the following:

1. Development of CUP 92-05 will be undertaken and carried out in accordance with the CUP Site Plan and the Development Plan as officially adopted and certified, respectively.

a. CUP 92-05 for the Polk Power Station is approved in accordance with the CUP Conceptual Site Plan, a reduced copy of which is attached hereto as Exhibit "D" and by reference made a part hereof.

b. The Site Certification Application to be filed by TEC under the PPSA for the Polk Power Station will constitute the formal application for Development Plan approval and shall be submitted to Polk County simultaneously with the Florida Department of Environmental Regulation (DER).

c. The remaining development of CUP 92-05 must be accomplished in accordance with any site certification order issued under the PPSA, which order will constitute Development Plan approval for CUP 92-05; provided that such Site Development Plan approval is generally

consistent with the Conceptual Site Plan approval hereby granted by Polk County.

2. The Timetable of Development as officially adopted by the County and agreed to by TEC, as shown in Exhibit "E" attached hereto and made part hereof, shall be adhered to by TEC.

3. The Special Conditions adopted or imposed by the County in the process of the approval of CUP 92-05, which requirements are set forth in Exhibit "F" attached hereto, are made part hereof.

4. All permits and authorizations shall be granted under the PPSA in accordance with such laws, ordinances, and regulations as may be in effect at the time of approval. Impact fees shall be assessed at the time of building construction code compliance review.

III. DESTRUCTION

In the event that all or a portion of the Project should be destroyed by a storm, fire or other common disaster, TEC, its grantees, successors or assigns, shall have the right to rebuild and/or repair so long as there is compliance with the Site and Development Plans, as the same may be amended from time to time.

IV. CHANGES AND ADDITIONS

There shall at all times be a strict adherence to the provisions of this CUP and the Development Plans approved under the PPSA. All modifications of the Project shall be submitted to the County. Any modification of the Project that would require

amendment of this CUP but not amendment of the Development Plans approved under the PPSA shall be reviewed pursuant to the applicable laws and ordinances of the County. Any modification of the Project that would require amendment of both this CUP and the Development Plans approved under the PPSA shall be reviewed pursuant to both the applicable laws and ordinances of the County and the PPSA. Any modification of the Project that would require amendment of the Development Plans approved under the PPSA but not amendment of this CUP shall be reviewed pursuant to the PPSA. The following possible future improvements shall require appropriate future county authorization pursuant to local ordinances:

electrical transmission lines if other corridor routes are proposed other than those detailed in the CUP application, pursuant to Finding 21-1 of the staff report.

Any off-site future natural gas or fuel oil pipeline pursuant to Finding 21-2 of the staff report shall not be considered as part of this CUP approval.

V. BREACH OF CUP 92-06

1. In the event that TEC, its grantees, successors or assigns, has not presented its design plans for an initial building construction code compliance review within thirty-six (36) months

of the approval of the Development Plans under the PPSA, or has violated any of the terms of this CUP in any material respect, the Board of County Commissioners may serve notice to TEC in writing of the date and place of a public hearing on the CUP, at which time TEC will be given an opportunity to explain the reasons for the scheduling delays and/or violation of the terms of this CUP and to propose a method of fulfilling its obligations under this CUP. If it is determined that a breach has occurred, the County may, at its discretion, allow TEC, by amendment of this CUP, time to demonstrate its willingness to meet the County's conditions.

2. If at the end of a reasonable period of time, in this case no more than twelve (12) months from the date notice is served on TEC as described above, TEC is clearly unable or unwilling to abide by the conditions of this CUP, or if the conditions of this CUP have in some other manner been clearly violated, the Board of County Commissioners may initiate a modification of the CUP to eliminate the affected property from the CUP or impose additional conditions that would remedy the violation.

VI. JURISDICTION

Any and all suits or actions at law pertaining to this CUP shall initially be brought in the Tenth Judicial Circuit, Polk County, Florida, and no other venue.

VII. SUCCESSOR AND ASSIGNS

This CUP shall be binding upon the parties hereto, their successors in interest and assigns.

VIII. NOTICE

All notices given pursuant to the terms of CUP 92-05 or which any party may desire to give hereunder shall be in writing and delivered personally, telegraphed or sent registered or certified mail and shall be conclusively presumed to have been given by such delivery. All notices shall be given to each of the following:

TEC:

Tampa Electric Company
Corporate Counsel, Legal Department
Post Office Box 111
Tampa, Florida 33601-0111

Tampa Electric Company
Vice President, Production
Post Office Box 111
Tampa, Florida 33601-0111

Tampa Electric Company
Vice President, Energy Resources
Planning
Post Office Box 111
Tamps, Florida 33601-0111

COUNTY:

Polk County Board of County
Commissioners
Post Office Box 1969
Bartow, FL 33830

With copies to:

Polk County Attorney
Post Office Box 60
330 W. Church Street
Bartow, FL 33830

Polk County Planning Division
Post Office Box 1969
Bartow, FL 33830

EXHIBIT A

Table 3-1. Polk Power Station Legal Description of Lands

LANDS FROM FREEPORT MACMORAN RESOURCE PARTNERS, LIMITED PARTNERSHIP

LANDS TO THE EAST OF STATE ROAD 37:

TOWNSHIP 32 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA

SECTION 1

That part of the West 330.00 feet of the East 1/2 of the West 1/2 of said Section 1, lying southwesterly of Fort Green Road, AND all that part of the West 1/4 of said Section 1 lying southwesterly of Fort Green Road.

SECTION 2

- a. The West 848.00 feet of the NW 1/4 of the NW 1/4.
- b. The South 3/4 LESS that part described as; Begin 400.00 feet West of the NE corner of said South 3/4, run thence West 3600.00 feet; thence South 150.00 feet; thence East 450.00 feet; thence South 200.00 feet; thence East 700.00 feet; thence North 200.00 feet; thence East 2450.00 feet; thence North 150.00 feet to the POINT OF BEGINNING.

SECTION 3

All lying East of State Road 37.

SECTION 4

All lying East of State Road 37.

SECTION 9

BEGIN at the NE corner of said Section 9 and proceed 5.00° 04' 08" E. along the East line of said Section 9 for 2117.07 feet; thence N.88° 05' 57" W. for 323.11 feet; thence S.88° 42' 07" W. for 983.72 feet; thence N.89° 51' 23" W. for 1058.61 feet; thence S.39° 38' 56" W. for 454.20 feet; thence N.13° 09' 59" W. for 538.34 feet to the easterly right-of-way line of State Road No. 37 (being 80 feet at right angles from centerline); thence N.27° 31' 59" E. along said right-of-way line for 2184.60 feet to the North line of said Section 9; thence N.89° 32' 05" E. along said North line for 1765.11 feet to the POINT OF BEGINNING.

EXHIBIT A

Table 3-1. Polk Power Station Legal Description of Lands (Continued, Page 2 of 4)

SECTION 10

BEGIN at the NE corner of said Section 10 and proceed S.00°00'02"E. along the East line of said Section 10 for 1885.69 feet thence N.88°45'46"W. for 324.02 feet; thence S.01°25'49"W. for 1761.69 feet; thence N.89°56'27"W. for 3504.25 feet; thence N.02°46'52"W. for 454.48 feet; thence N.61°33'02"W. for 320.02 feet; thence N.00°22'41"W. for 641.25 feet; thence N.46°54'10"W. 372.71 feet; thence N.88°05'57"W. for 820.69 feet; to the West line of said Section 10; thence N.00°04'08"W. for 2117.07 feet to the NW corner of said Section 10; thence S.89°53'15"E. along the North line of said Section 10 for 5274.75 feet to the POINT OF BEGINNING.

SECTION 11

BEGIN at the NE corner of said Section 11 and proceed S.00°13'13"E. along the East line of said Section 11 for 731.09 feet; thence S.22°01'06"W. for 60.15 feet; thence S. 04°41'20"W. for 1038.35 feet; thence S.16°25'50"E. for 399.84 feet again to the East line of said Section 11; thence S.00°13'13"E. along said East line for 448.50 feet to the East Quarter Section Corner of said Section 11; thence S.00°19'20"W. along the East line of the SE 1/4 of said Section 11 for 277.57 feet; thence S.83°10'34"W. for 845.66 feet; thence N.80°44'17"W. for 775.80 feet; thence N.04°00'31"W. for 937.40 feet; thence N.88°45'46"W. for 3637.10 feet to the West line of said Section 11; thence N.00°00'02"W. for 1885.69 feet to the NW corner of said Section 11; thence N.89°55'04"E. for 5298.52 feet to the POINT OF BEGINNING.

SECTION 12

BEGIN at the NW corner of said Section 12 and proceed S.88°52'09"E. along the North line of the NW 1/4 of said Section 12 for 1649.70 feet to a concrete monument number 1943; thence S.00°19'05"W. for 75.98 feet; thence S.89°23'48"W. for 614.63 feet; thence S.10°48'34"W. for 155.81 feet; thence S.43°38'11"W. for 211.14 feet; thence S.82°21'29"W. for 355.22 feet; thence N.84°53'22"W. for 385.84 feet; thence S.22°01'06"W. for 320.75 feet to the West line of said Section 12; thence N.00°13'13"W. along said West line for 731.09 feet to the POINT OF BEGINNING.

EXHIBIT A

Table 3-1. Polk Power Station Legal Description of Lands (Continued, Page 3 of 4)

LANDS TO THE WEST OF STATE ROAD 37:

TOWNSHIP 32 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA

SECTION 3

The part of the South 1/2 of the NW 1/4 lying West of State Road No. 37. LESS existing county maintained right-of-way for Bethlehem Road.

SECTION 4

The SE 1/4 of the SW 1/4, LESS existing county maintained right-of-way for Albritton Road. The SE 1/4 of said Section 4 lying North and West of State Road No. 37, LESS existing county maintained right-of-way for Albritton Road, and subject to GAS PIPELINE EASEMENT in O.R. Book 219 on Page 341 of the Public Records of Polk County, Florida. That part of the South 1/2 of the NE 1/4 of said Section 4 lying North and West of State Road No. 37, LESS existing county maintained right-of-way for Bethlehem Road, and subject to GAS PIPELINE EASEMENT in O.R. Book 219 on Page 341 of the Public Records of Polk County, Florida.

TOWNSHIP 32, SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA

SECTION 7

The NE 1/4, LESS the NE 1/4 of the NE 1/4, AND LESS the North 416.00 feet of the East 209.00 feet of the NW 1/4 of the NE 1/4, AND LESS existing county maintained right-of-way for Albritton Road.

The SE 1/4, LESS right-of-way for State Road No. 674.

The SW 1/4, LESS right-of-way for State Road No. 674.

The NW 1/4, LESS the NE 1/4 of the NW 1/4, AND LESS existing county maintained right-of-way for Albritton Road. Said Section 7 being subject to existing Florida Gas Transmission Co. Pipeline Easement.

SECTION 8

The NE 1/4, LESS the West 1/2 of the NW 1/4 of the NE 1/4.

The SE 1/4 of Section 8, LESS right-of-way for State Road No. 674.

The SW 1/4 of Section 8, LESS right-of-way for State Road No. 674.

The South 1/2 of the NW 1/4.

Table 3-1. Polk Power Station Legal Description of Lands (Continued, Page 4 of 4)

SECTION 9

ALL, lying West of State Road No. 37 LESS existing county maintained right-of-way for Albritton Road, AND LESS right-of-way for State Road No. 674.

LANDS FROM AMERICAN CYANAMID COMPANY

TOWNSHIP 31 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA

SECTION 34

All the part of the S-3/4 of E-3/4 of the section lying east of the right-of-way of State Road 37 and also lying south of the right-of-way of County Road 630 (formerly designated State Road 630).

SECTION 35

All the part of the S-3/4 of the section lying south of the right-of-way of County Road 630 (formerly designated State Road 630) and also lying west of the right-of-way of the Brewster-Fort Green Road.

TOWNSHIP 32 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA

SECTION 2

- a. The N-1/2 of N-1/2, LESS the west 848 feet thereof, and SUBJECT TO existing right-of-way of the Brewster-Fort Green Road at the northeast corner thereof.
 - b. The part of the S-1/2 of N-1/2 (being part of U.S. Government Lot 1 in the NW-1/4 and of U.S. Government Lot 1 in the NE-1/4) described as: begin at a point on the north boundary of said S-1/2 of N-1/2 located 400 feet west of the northeast corner thereof (measured along said north boundary), thence west along said north boundary 3600 feet, thence south 150 feet, thence east 450 feet, thence south 200 feet, thence east 700 feet, thence north 200 feet, thence east 2450 feet, thence north 150 feet to the point of beginning. (The directions "north" and "south" meaning the bearing of the east boundary of Section 2, and the directions "east" and "west" meaning the bearing of the north boundary of said S-1/2 of N-1/2 of Section 2.)
-

Source: Andrew Edgemon & Associate, 1991.



EXHIBIT B

Freeport-McMoRan Resource Partners,
Limited Partnership
1615 Poydras Street
New Orleans, LA 70112
P.O. Box 61520
New Orleans, LA 70161

Brainerd S. Montgomery
Senior Attorney
Telephone: 504-582-4377

January 23, 1992

Mr. Phil McLemore
Development Services Director
330 West Church Street
Bartow, Florida 33830

Re: Tampa Electric Company's Conditional Use
Permit Application

Dear Mr. McLemore:

This letter is to advise you that Freeport-McMoRan Resource Partners, Limited Partnership, as owner of real property more particularly described in the application enclosed herewith, authorizes Tampa Electric Company to file the attached application seeking approval of a conditional use permit for the purpose of constructing, operating and maintaining electric generating power plant facilities.

Sincerely,

A handwritten signature in dark ink, appearing to read "Brainerd S. Montgomery", with a long, sweeping horizontal line extending to the right.

/ag
Enclosure

EXHIBIT B

February 17, 1992

Mr. Phil McLemore
Development Services
Director, Polk County
330 West Church Street
Bartow, FL 33830

Re: Tampa Electric Company's Conditional Use
Permit Application
Our File No.: 192-0127

Dear Mr. McLemore:

American Cyanamid Company is the owner of the real property (the "Property") described on Exhibit "A" attached hereto, consisting of approximately 774 acres. Please be advised that as the owner of the Property, we hereby authorize Tampa Electric Company to file the attached Application seeking approval of a Conditional Use Permit for the purpose of constructing, operating or maintaining electric generating power plant facilities on the Property. We request that notices of any hearings before the Board of County Commissioners and or the Zoning Advisory Board be sent to us at the following address:

American Cyanamid Company
c/o FOWLER, WHITE, GILLEN, BOGGS,
VILLAREAL AND BANKER, P.A.
Post Office Box 1438
Tampa, FL 33601
Attn: F. Woodrow Coleman, Esq.

Sincerely,

AMERICAN CYANAMID COMPANY, a
Maine corporation

By: _____



FWC\132

[Handwritten signature]

EXHIBIT B

DESCRIPTION TRACT "C"

TOWNSHIP 31 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA
SECTION 34

ALL THAT PART of said Section 34 lying East of State Road No. 37 (Project No. 5687) and South of County Road No. 630.

SECTION 35

ALL THAT PART of said Section 35 lying South of County Road No. 630 and West of Fort Green Road.

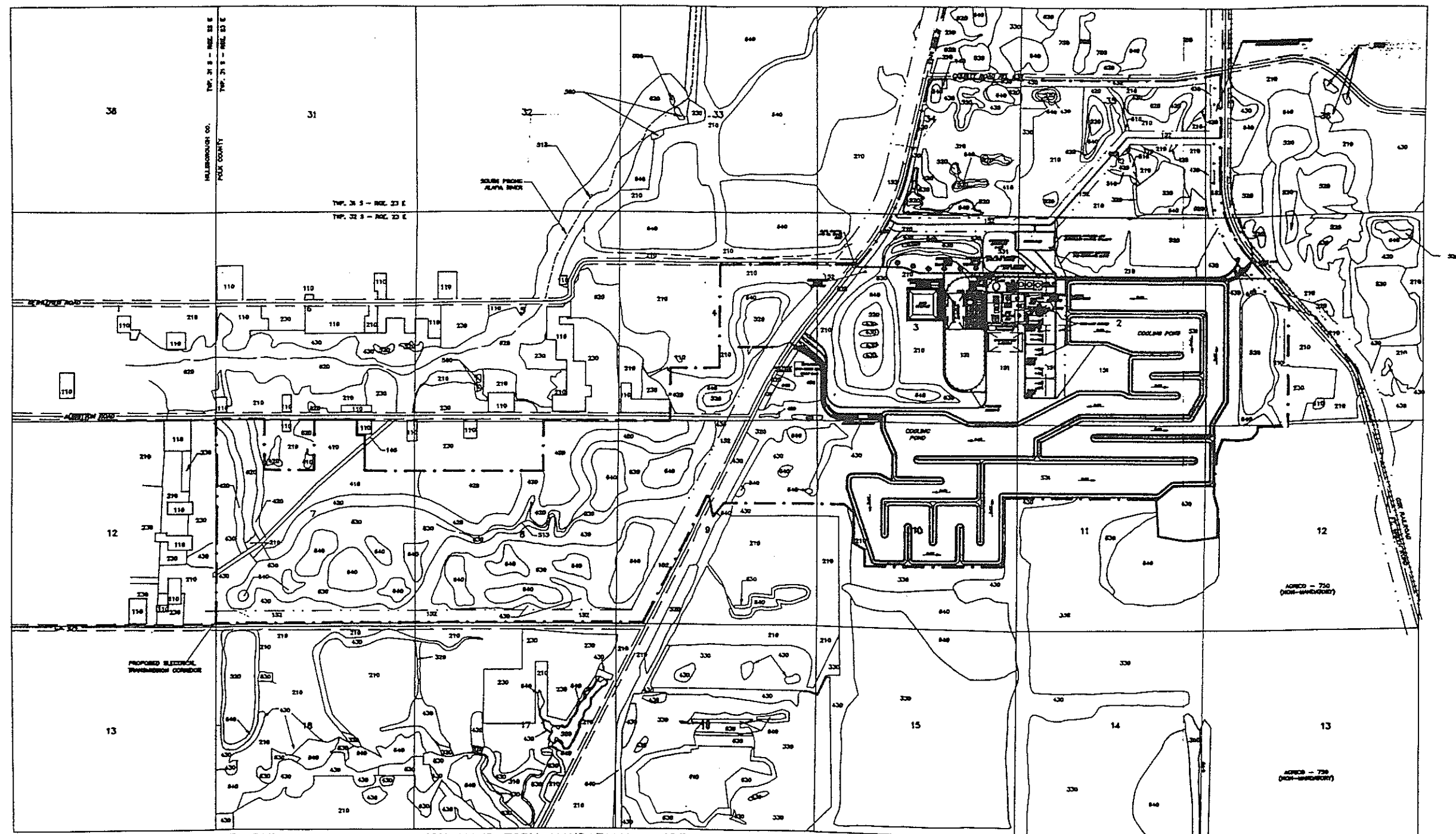
TOWNSHIP 32 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA

SECTION 2 (O.R. 1434 PG 312)

BEGIN at the Northeast corner of the South 3/4 of said Section 2 and run West along the North line of said South 3/4 for 400.00 feet; thence South 150.00 feet; thence West 2450.00 feet; thence South 200.00 feet; thence West 700.00 feet; thence North 200.00 feet; thence West 450.00 feet; thence North 150.00 feet to a point on the North line of said South 3/4, said point being 4000.00 feet West of the POINT OF BEGINNING; thence West 458.54 feet to a point 848.00 feet East of the West line of the NW 1/4 of said Section 2; thence North and parallel with said West line of Section 2 for 1282.90 feet to the North line of said Section 2; thence East along the North line of said Section 2 to the NE corner of said Section 2; thence South along the East line of the North 1/4 of said Section 2 to the POINT OF BEGINNING. LESS existing right-of-way for Fort Green Road.

EXHIBIT C

THIS EXHIBIT HAS BEEN ELIMINATED FROM CUP 92-05



LAND USE LEGEND

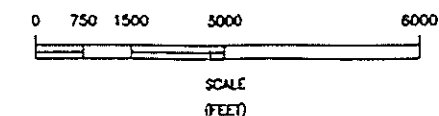
148	=	GAS TRANSMISSION LINE EASEMENT ROW
152	=	OVERHEAD TRANSMISSION LINES
210	=	CROPLAND AND PASTURELAND
310	=	GRASSLAND
320	=	SHRUB AND BRUHLAND
330	=	MIXED RANGELAND
410	=	CONIFEROUS FOREST
420	=	HARDWOOD FOREST
430	=	MIXED UPLAND FOREST
520	=	LAKES
531	=	RESEMOIRS
620	=	WETLAND - HARDWOOD FOREST
630	=	WETLAND - MIXED FOREST
640	=	WETLAND - VEGETATED NON-FORESTED
	=	POWER PLANT SITE AND SURROUNDING RESEVOIR AND GRASSLANDS

NON-MANDATORY

0.00	12.47	12.47
0.00	226.08	226.08
254.40	493.54	747.94
4.38	0.00	4.38
1.89	53.06	54.95
35.09	0.00	35.09
0.00	129.70	129.70
56.37	264.98	497.66
24.17	246.61	270.78
140.18	70.81	210.99
0.00	22.83	22.83
11.22	32.48	44.70
0.00	412.24	419.85
6.58	357.45	371.64
0.00	1321.77	1321.77

TOTAL SITE ACREAGE 4347.98

ACRES



DATE: 01/23/92

FIGURE 3-4.

CONCEPTUAL SITE AND POST-RECLAMATION PLAN

EXHIBIT D

Source: ECT, 1992.

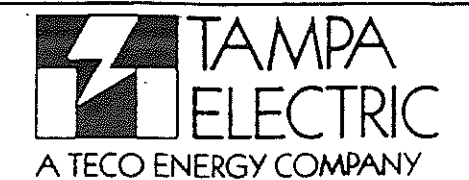


EXHIBIT E
DEVELOPMENT TIMETABLE

Implementation of the Polk Power Plant as authorized by CUP 92-05 shall be defined as TEC's initial application to Polk County for building construction code compliance review. Implementation must occur no later than 36 months following Development Plan approval and shall satisfy the requirements of Section 6.6 of Article V of Polk County Ordinance 83-2 and shall apply to the entire phased-in buildout capacity of up to 1,150 megawatts at the Polk Power Station ("Development Schedule").

It is anticipated that the 1,150 megawatt phased-in build out capacity of the Polk Power Station will be completed by the year 2030. Failure to complete the phase-in build out capacity of up to 1,150 megawatts by the year 2030, however, shall not be deemed a variation from the approved development schedule and shall not constitute a modification of CUP 92-05 nor require TEC to re-apply for a CUP. The only time requirement that TEC shall be obligated to satisfy will be that implementation occur no later than 36 months following Development Plan Approval, as set forth above.

EXHIBIT F
SPECIAL CONDITIONS OF APPROVAL

1. Permits - Copies of all federal permits and the PPSA certification order required for each phase of development of the Polk County Site facility shall be provided to the Polk County Planning Division prior to the commencement of building construction code compliance review.
2. Fuel - The project shall be restricted to the use of the following fuels: natural gas, coal, coal gas, petroleum coke, or oil unless a CUP modification is received.
3. Fire Protection Plan - Prior to obtaining a building permit, TEC shall submit an acceptable fire protection plan to Polk County outlining specific measures to be taken to meet all local fire codes and regulations. As part of these plans, TEC shall give consideration to foam systems for tank protection as discussed in NFPA 850(5-3.9.2) as part of the overall fire risk evaluation. The evaluation shall consider such factors as the specific type of tank to be utilized, exposure to other important structures, product value and resupply capability.
4. Emergency Management Plan - Following site certification, and prior to commercial operation, TEC shall submit an acceptable emergency management plan to Polk County (Office of Public Safety). This Plan will detail emergency management procedures for any project-related, off-site incident in Polk County so as to minimum response time and maximum effectiveness to protect the public's health, safety, and welfare.
5. Emergency Notice - TEC shall agree to immediately contact Polk County's Office of Public Safety when the applicant becomes aware of project related off-site incidents which have the potential for affecting the public's health, safety, and welfare.
6. Transportation:
 - a. In 1995, 1996, and 1997, TEC shall begin a traffic monitoring program at the intersection of SR 37 and CR 630 to monitor the need to install a traffic signal or

to make geometric improvements. Intersection monitoring shall consist of conducting turning movement counts and a signal warrant analysis. The monitoring shall be conducted once in 1995, 1996 and 1997 during January, February, or March and reported to the Transportation Section of the Planning Division. Should the traffic monitoring program show the need for a new traffic signal as a result of traffic to the Polk Power Station, it shall be the responsibility of TEC to install such a signal.

- b. In 1995, 1996, and 1997, TEC shall begin a traffic monitoring program at the intersections of CR 630 and Fort Green Road to monitor the need to install a traffic signal or to make geometric improvements. Intersection monitoring shall consist of conducting turning movement counts and a signal warrant analysis. The monitoring shall be conducted once in 1995, 1996 and 1997 during January, February, or March. Should the traffic monitoring program show the need for improvements as a result of traffic to the Polk Power Station, it shall be the responsibility of TEC to install a new traffic signal or to make geometric improvements.

7. Solid Waste Disposal -

- a. TEC shall be responsible for proper disposal of slag and/or ash byproducts produced in the power generation process at locations other than at County landfills.
- b. TEC shall monitor groundwater in relation to by-product and temporary storage areas and make available to the County all data produced from the groundwater monitoring system. Upon 24-hour notice TEC shall allow County staff members access to the site for purposes of examining the condition of the groundwater monitoring equipment.

Plan included in the application for Development Plan Approval (Site Certification Application) shall reflect all required setbacks, buffers and building separations as required by the standards set forth in the Polk County Zoning Ordinance, Article V, Section 5.7(B)(3).

15. Wildlife Management Plan - Within one year of release of reclamation of the site by DNR, TEC shall prepare a wildlife management plan in consultation with the Florida Game and Fresh Water Fish Commission, Polk County and other interested parties concerning that portion of TEC's site located west of State Road 37.
16. Water Use and Conservation Reporting - TEC shall supply water use quantities, methods of water conservation, and estimates of water conservation if available, on an annual basis to Polk County (Planning and Water Resource Divisions).
17. Ambient Air Quality Testing - The purpose of this condition is to assist Polk County in gathering air quality data. Therefore, to the extent not required as a condition of TEC's certification approval and provided for through the DER Title V funded statewide air quality monitoring network or other means, TEC shall provide up to two ambient air quality monitoring stations ("Monitors"). The parameters to be monitored, the location of the Monitors, and the operational date of the Monitors will be determined during TEC's certification process.

P:\users\planning\dsm\certipp\cup9205.bcc