

SECTION 1901. Purpose. The purpose of this Chapter is to provide standards for the protection and conservation of significant natural resources.

SECTION 1902. Other Regulations. In order to eliminate needless duplication of regulatory efforts the County shall, at a minimum, rely upon state and/or federal laws and regulations for the protection and conservation of natural resources.

SECTION 1903. Significant Natural Resources. Significant natural resources are identified as follows.

1. Ambient air.
2. All waters in the State, and lands lying thereunder, including sea grasses, and shellfish beds.
3. Government owned or leased land that is used for conservation purposes.
4. Designated Ecosystem Management Areas.
5. Designated Habitat Conservation Areas.
6. Sand Hills Lakes.
7. Groundwater resources.
8. Wetlands.
9. Flood zones.
10. Potable water sources.
11. Beaches and dunes.
12. Selected trees and vegetation.
13. Known habitat of endangered, or threatened, species.
14. Pine Islands.
15. Outstanding Florida Waters (OFW).

SECTION 1904. Environmental Standards. The following standards shall be used to protect and conserve significant natural resources. All development must be designed and constructed in compliance with these standards.

1. Ambient air. The County will rely upon state and/or federal laws and regulations to maintain air quality standards.
2. Waters in the State, and lands lying thereunder, including sea grasses and shellfish beds. The County will substantially rely upon state and/or federal laws and regulations to maintain established water quality standards with the following exceptions:
 - a. On-site sewage disposal systems are prohibited within 100 feet of the shorelines of Deer Point Reservoir and its tributaries and any Outstanding Florida Water, Class I and II waters, and Ecosystem Management Areas.
 - b. Stormwater treatment, erosion, and sedimentation controls are required for all waterfront development activities as described in Chapter 24.
 - c. No development shall be permitted that would cause damage or destruction of seagrass beds with exception to the following provision. Where the applicant can prove no alternative is available, encroachment shall be permitted subject to applicable permits and mitigation. Developers of waterfront property where such development includes canals, marinas, boat basins, or other similar features that will generate vessel traffic may be required to install aids-to-navigation, warning signs or buoys, channels, or other such features to protect seagrass beds at their own expense.
 - d. No new development will be permitted that will contribute to the shoreline erosion of any property.
 - e. No new development will be permitted that would reasonably be expected to cause violation of state or federal water quality standards.
 - f. Any new point source sewage discharges into Class I, or Class II waters are prohibited.
 - g. Temporary erosion control measures (e.g. silt fence, hay bales, etc) shall be used to control potential erosion caused by development adjacent to shorelines. Any such erosion control shall be placed and maintained so as to prevent the escape of silt or soil materials into adjacent water bodies.”
 - h. All new, expanded, or redeveloped marinas shall comply with the provisions of Comprehensive Plan Policy 7.12.4.

- i. All utility and road crossings of water bodies and waterways shall either be subterranean (underwater and at least four feet below grade) or elevated from shore-to-shore and beyond the extremes of buffer requirements established elsewhere in these regulations. No aerial transmission lines may cross over the open waters of Bay County except as specially authorized by the Board of County Commissioners.
3. Surface Waters. All Class I and II Surface Waters as defined by Bay County Comprehensive Plan Policy 6.4.2 shall be protected by the minimum standards stated in Section 62-302.500, F.A.C., as amended.
4. Shoreline Setback. The following setbacks shall apply for development adjacent to any water body.
 - a. All principle and accessory structures shall be located no closer than thirty (30) feet from the mean high water or ordinary high water line or within thirty (30) feet of any Department of Environmental Protection jurisdictional line, whichever is more restrictive. Piers, docks or similar structures and an attendant ten (10) foot wide cleared path for purposes or providing access to such structure shall be allowed. All natural vegetation if any exists will be preserved within the 30-foot setback area. The purpose of the setback is to provide a buffer between surface waters and development, preserve quality, limit sediment discharges, erosion, and uncontrolled stormwater discharges, and provide wildlife habitat.
5. Government Owned or Leased Lands. Development of government owned or leased land that is used for conservation purposes shall be controlled by the government agency responsible for management of such lands.
6. Groundwater Resources. The County will rely upon state regulations for the conservation and protection of groundwater resources.
7. Flood Zones and Flood Plains. Flood zones are those shown on Flood Insurance Rate Maps published by the Federal Emergency Management Agency. Development in flood zones shall comply with the County's Flood Damage Prevention Ordinance (04-27) as amended.
8. Beaches and dunes. If permitted by the FDEP, developers of beachfront projects shall make every effort to avoid damaging dunes. Where such damage is unavoidable, the significant dune must be restored and revegetated to at least pre-development conditions and in accordance with the Department of Environmental Protection, Division of Water Facilities,

Bureau of Beaches and Coastal Systems *Building Back the Sand Dunes* publication. Mitigation required as a result of a DEP Coastal Construction Permit shall be presumed to satisfy dune restoration requirements.

- a. Dune walkovers over natural or restored dunes are required as part of new beachfront development projects, and shall be constructed approximately three feet above the height of the sand to promote natural dune growth and in accordance to the American Disabilities Act standards.
 - b. Any construction footprint shall be sited as far landward as possible to conserve dune habitats.
 - c. No new development will be permitted that would contribute to the shoreline erosion of any property.
9. Pine Islands. "Pine Islands" are small upland (fastland) areas generally twenty (20) acres in size or less (usually characterized by typical pine flatwood vegetation) which are surrounded by waters of the State, wetlands, salt marsh, or tidal mud flats and may be subject to the development restrictions found at s.18-21.004, FAC. Development, including land clearing, on any "Pine Island" is prohibited.
10. Historic Resources. The applicant will use the State of Florida Master Site File to identify those areas where historic/cultural archaeological resources may exist. Developers of property within these areas must either demonstrate that no such resources are present or provide a protection plan, which demonstrates how these resources will be protected and preserved.

SECTION 1905. Ecosystem Management Areas. Designated Ecosystem Management Areas (EMA) shall be the same as those specified in the Bay County Comprehensive Plan - Conservation Element. The following development restrictions shall apply in EMA's unless: 1) it can be demonstrated that no locally significant natural resources exist on a parcel of land subject to development, or; 2) a developer can design and construct his development project such that locally significant natural resources are preserved, or impact minimized.

1. All stormwater runoff will be treated to Outstanding Florida Water (OFW) standards or greater as specified by state regulations.
2. Any new point source discharges of sewage effluent into surface waters is prohibited.

3. All on site disposal systems will be located at least 100 feet upland of the U.S. Army Corps of Engineers or the DEP wetland jurisdiction line, whichever is more restrictive.
4. Development will be undertaken so as to avoid activities that would destroy wetlands or the natural functions of wetlands except for activities or permits issued by state and federal agencies.
5. No building or structure can be located closer than thirty (30) feet mean high water or ordinary high water line or within thirty (30) feet of any Department of Environmental Protection jurisdictional line, whichever is more restrictive except for piers, docks or similar structures and an attendant ten (10) foot wide cleared path through the wetland for purposes of providing access to such structure, or wetland crossings required to connect dry, upland parcels. All native vegetation, if any exists, will be preserved within the 30-foot setback area, with exception to the allowed attendant path.
6. No development will be permitted that can reasonably be expected to cause short or long term violations of state or federal water quality standards.
7. The requirements of this subsection will not apply to bona fide agricultural or silvicultural activities whenever established "Best Management Practices" are used, as published by the Florida Department of Agriculture and Consumer Services, most recent edition.
8. Development projects may be clustered to avoid or preserve significant natural resources.
9. For development projects in Ecosystem Management Areas, conservation zones or Coastal High Hazard Areas or a site with jurisdictional wetlands, the Planning Official may require an environmental impact analysis to determine potential impact upon locally significant natural resources. Any such analysis shall be at the expense of the developer, and shall follow the requirements of Section 1915.

SECTION 1906. Deer Point Reservoir Protection Zone. The Deer Point Reservoir Protection Zone was established to protect the water quality of the Deer Point Reservoir at or above ambient levels at the time the original ordinance (94-12) was adopted. Development within this area must follow the following requirements.

1. Allowable uses within the protection zone include those described for neighborhood commercial, conservation, recreation, agriculture, Silviculture, low-density residential, institutional, and public service/utilities.

Only neighborhood commercial (C-1) uses and those associated with conservation or conservation/recreation activities (e.g. canoe rental, eco-tourism, etc.). All other uses are prohibited. Gasoline service stations, dry cleaners, auto service stations, solid waste landfills, or any other business or activity which generates hazardous or toxic waste is prohibited. (Amended Ord. 13-49, 12-17-13)

2. The following density restrictions shall apply within the protection zone.
 - a. Except as specified in subsection 8, residential densities shall be no denser than one (1) dwelling unit per acre within the Urban or Suburban Service Areas in any future land use designation on lots created after the effective date of this Code that rely on on-site sewage disposal systems (septic tanks).
 - b. No area shown as "Residential" on the Future Land Use Map amendment as a result of a map amendment adopted after December 14, 1999 shall have a density greater than one (1) dwelling unit per five (5) acres.
 - c. Those areas of the shoreline of Deer Point Reservoir designated for "Residential" development on the Future Land Use Map in a zone 200 feet from the mean high water or ordinary high water line, shall be designated a special low density residential zone in which land use shall be limited to single-family dwellings in which sixty (60) percent of each building site must be of pervious materials. Twenty-five (25) percent of each building site must be composed of native vegetation and septic tanks and their drainfields may be placed only in adequate soils as identified in Section 64 E-6, F.A.C., as amended.
3. Except as described in subsection 1906(2) (b), impervious surface shall be limited to a maximum of forty-five (45) percent of the total lot or parcel for all residential or nonresidential projects.
4. Setback requirements herein represent a line of regulation within which the following restrictions shall apply.
 - a. Developers, owners and tenants of parcels created after the effected date of this Code shall maintain a seventy-five (75) foot setback from Deer Point Reservoir, Cedar Creek, Bear Creek, Bayou George Creek, Econfina Creek, and any tributaries thereto. For the purposes of this regulation, the term "tributary" shall mean any continuously flowing stream, creek, or branch. This term includes man made canals, but does not include ditches or

- stormwater control facilities. This setback shall be measured from the Department of Environmental Protection jurisdictional line.
- b. Within the setback area, all vegetation shall be preserved in a natural condition with no development of any kind except for a ten (10) foot wide path to the water and any associated piers or docks. Established lawns in existence prior to the original date of this ordinance, August 2, 1994 are exempt from this limitation.
 - c. The required setback shall be shown on all final plats of all residential subdivisions, and shall be described and recorded on all deeds as being a required setback.
5. On-site sewage disposal systems shall be located and constructed to avoid damage or contamination during flooding. However, in all cases the minimum setback for septic tanks and their drainfields shall be 100 feet from the mean high water or ordinary high water line.
 6. All development within the protection zone shall comply with stormwater treatment standards found in this Code. Additionally, stormwater discharge facilities which directly discharge into Deer Point Reservoir, Cedar Creek, Econfina Creek, Bear Creek, Bayou George Creek, or any tributary thereto shall include an additional level of treatment equal to Outstanding Florida Waters standards.
 7. Except for setbacks from Deer Point Reservoir specified in subsection 1906(4), all Silviculture and agriculture activities within the protection zone shall be conducted using *Silviculture Best Management Practices* as published by the Florida Department of Agriculture and Consumer Services, most recent edition.
 8. The requirements of this section shall not apply to the following.
 - a. The construction of a single family home on any lot or parcel of record in existence on the effective date of the original ordinance, August 2, 1994. Parcel of record means a piece of property legally described by plat or deed and filed with the Clerk of the Circuit Court. (Amended Ord. 13-49, 12-17-13.)
 - b. Any pending request for a Comprehensive Plan map amendment which had been adopted by county ordinance and transmitted to the state Department of Community Affairs prior to August 2, 1994.
 - c. The allowable uses or activities for any land use category in existence and shown on the Comprehensive Plan Future Land Use Map on August 2, 1994.

- d. Any lawfully constructed building or structure in place on August 2, 1994.
- e. The reconstruction of any lawfully permitted building or structure in existence on August 2, 1994, which is damaged by fire, flood or other catastrophe.
- f. The replacement of any mobile home or manufactured housing unit in place on August 2, 1994.
- g. The construction, reconstruction, or expansion of any dock, pier, seawall, bulkhead or other similar structure on submerged lands.

SECTION 1907. Habitat Conservation Areas. Designated habitat Conservation Areas shall be as described in the Bay County Comprehensive Plan - Conservation Element. Developers of land within or adjacent to Habitat Conservation Areas must comply with the following requirements.

- 1. The developer must demonstrate the existence or absence of rare, threatened, or endangered species by submitting an environmental impact analysis to the Planning Official.
- 2. If rare, threatened, or endangered species are determined to be present on the property involved the developer shall, provide a specific conservation and management plan where required by the U.S. Fish and Wildlife Service to ensure survival and protection of the species involved.
- 3. Installation of “turtle sensitive” lighting is required as described in Section 1917.
- 4. County staff may consult with appropriate state, federal, or academic agencies to verify the applicability and viability of any conservation and management plan required by this subsection.

SECTION 1908. Sand Hills Lakes. The Sand Hills Lakes are those identified in Policy 6.9.1 of the Bay County Comprehensive Plan - Conservation Element. The Sand Hills lakes provide water recharge protection for the springs that feed the Deer Point Reservoir. These lakes are one of the highest recharge areas within the North West Florida Water Management District’s jurisdiction (SWIM Plan, 09/02). The following restrictions shall apply to development on lots or parcels fronting upon the Sand Hills Lakes.

- 1. Except for parcels of record as of May 14, 1990 there will be no development allowed that would permit an allowable density of greater

than one unit per ten acres on land immediately adjacent to any of the Sand Hills Lakes outside designated Rural Communities.

2. Surface water and ground water withdrawals that can reasonably be expected to draw down water levels in the Sand Hills Lakes are prohibited.
3. The provisions and requirements of subsections 4 and 6 of Section 1904 shall also apply to development of property fronting upon the Sand Hills Lakes.
4. Because nonpoint source pollution can result from sanitary sewer overflows, and septic systems have the potential to be direct or indirect sources of nutrient and bacterial pollution via ground and surface waters, development surrounding any lake in the Sand Hills area shall be required to install dry lines, or contribute the applicable funds to an escrow account when public water and sewer services are imminent.

SECTION 1909. Wetlands. For purposes of this Code the term “Wetlands” means the same as defined in Section 62-340.200 (19) F.A.C. The Bay County Board of County Commissioners has determined that wetlands are a valuable natural resource worthy of protection. This section shall set restrictions, constraints and requirements to protect and preserve wetlands.

No project located in any jurisdictional wetland shall adversely affect the conservation of fish or wildlife or their habitats, or adversely affect recreational fisheries or their habitats. Additionally, no project shall adversely affect an endangered or threatened species or their habitat.

Dredge and fill activities in wetlands will be governed by applicable federal and state regulations. In addition to state and federal regulatory requirements the County will use the following measures to protect and conserve wetlands.

1. Wetlands and the required buffer will be delineated and depicted on all site plans included in applications for development approval. A notice shall be provided on all plans, surveys and subsequent deeds to prohibit the placement of permanent structures within the wetland and buffer area. Exceptions to the setback requirement include those listed in Section 1909 (3).
2. Developers shall design and construct development projects so as to avoid activities that would destroy wetlands or the natural functions of wetlands except for activities authorized by permits issued by federal or state authorities.

3. Wetland buffers will be required for development on all lots or parcels created after May 14, 1999 where wetlands exist. No building or structure can be located closer than thirty (30) feet from any wetland. The purpose of the setback area is to provide a buffer between wetlands and development, preserve water quality, limit sediment discharges, erosion, and uncontrolled stormwater discharges, and provide wildlife habitat. Any encroachments or alterations shall be in accordance with the following.
 - a. Piers, docks or similar structures and an attendant ten (10) foot wide cleared path for purposes or providing access to such structure shall be allowed.
 - b. Crossings or encroachments required to connect dry, upland parcels shall be allowed, and only insofar as the current form and function of the wetland is not ultimately compromised.
 - c. Utility crossings shall be allowed. The disturbed area shall be reconstructed and restored upon installation at a minimum to preexisting conditions.
 - d. In those situations where, due to the size, shape, topography, location(s) of wetlands, or similar factors, application of the wetland buffer would preclude reasonable use of the property involved, a variance may be pursued by the owner of the subject property to allow hardship relief from the layout of the land.
 - e. Encroachment into buffer areas may be allowed for utility construction purposes provided: no permanent building or structure is located in the buffer area; the area of encroachment is restored either through re-growth or planting native vegetation, and; adequate stormwater runoff and sediment controls are installed until such time as the encroached upon area is revegetated. A variance may be granted to allow an accessory use to violate the setback requirement, but by no more than twenty (20) percent.
 - f. No wetland buffer will be required adjacent to isolated manmade water bodies such as retention ponds, ditches, canals or borrow pits that do not connect to waters of the State as defined by Section 373.016, F.S.
 - g. In situations where the width of the buffer area exceeds the width of the wetland, the buffer may be reduced to the same size as the width of the wetland. The quality of the wetland will determine this possibility.

- h. Alternative project design and construction may be allowed in lieu of the required buffer when it can be demonstrated that such alternative method provides protection to the wetland or its habitat value that is equal to or greater than the vegetated buffer. To be considered for an alternative project design in lieu of the minimum required buffer setback, the following criteria apply:
- i. Site Plan. The applicant or developer shall submit an accurate site plan of the subject property, drawn to scale and dimensioned, that illustrates property lines, the location of all wetlands, proposed buffer setbacks, and existing and proposed structures.
 - ii. Ecological Assessment. The applicant or developer shall submit a ecological assessment, prepared by a qualified professional, of the subject property that provides: a wetlands delineation; describes in detail the type, quality and quantity of the vegetation in the buffer setback; describes in detail the type, quality and quantity of the wetland being protected; any necessary mitigation measures to enhance or further protect the remaining buffer vegetation and wetland, and; any other pertinent data concerning the subject property. The ecological assessment shall take the form of a Uniform Mitigation Assessment Method report generally described in Chapter 62-345, FAC.
 - iii. Retention of Technical Experts. The County shall retain the right to seek independent consultants for peer review of the ecological assessment, the cost of which will be the responsibility of the applicant or developer. Payment for peer review is due upon receipt of the billing invoice and proof of payment shall be provided to the County. No development order for the project under review shall be issued until proof of payment in full is received by the County.
 - iv. Planning Official. The decision to approve, approve with conditions, or deny an alternative project design shall reside with the Planning Official. A decision to approve or approve with conditions shall be based on the ecological assessment that must conclude that the alternative design provides protection to the wetland and its habitat value that is equal to or greater than the required vegetated buffer setback. All mitigation measures or design criteria recommended in the ecological assessment shall be implemented by the applicant or developer. Additional conditions may be

imposed by the Planning Official provided there is a reasonable relationship between the condition imposed and the impact resulting from the project. The decision of the Planning Official is final unless appealed in accordance with Section 209 of this Code.

4. Elevated wetland crossings that connect dry upland areas are permissible provided the natural water flow between wetlands is not interrupted.
5. In the event a lot or parcel of property is rendered totally undevelopable by avoidance of wetlands the property may be developed when: 1) disturbance of wetlands is the minimum necessary to build an allowable use, and; 2) mitigation is provided consistent with applicable law.
6. In order to adequately monitor the loss of wetlands within Bay County, all fill permits granted by an agency other than Bay County shall be reported to Bay County Planning and Zoning Division. This notification is the responsibility of the applicant, and shall be concurrent with the application for development order, where applicable. Before the issuance of the Development Order, the applicant shall file a verified copy of the permit(s).
7. Violations of this section, or noncompliance cases, may be required to implement appropriate corrective measures developed in consultation with the Planning Official and other appropriate agencies. In addition, triple application fees may apply, such as development order application fees, if this section is violated.

SECTION 1910. Potable Water Sources. Potable water sources include reservoirs, public water wells, and identified high aquifer recharge areas. The following requirements shall apply regarding potable water sources.

1. Except as specified in paragraph 1908(2) the County shall rely upon state and federal regulations for the location and maintenance of public water wells.
2. The County shall use the provisions and requirements of the Deer Point Reservoir Protection Ordinance to protect and conserve areas surrounding the Deer Point Reservoir. At minimum the requirements shall apply to all development undertaken in the Deer Point Reservoir Protection Zone, regardless of whether or not an amendment is made to the Comprehensive Plan - Future Land Use Map within the protection zone.
 - a. Only single-family residences are allowed within the protection zone except as provided herein.

- b. All commercial activities are prohibited except those associated with conservation or conservation/recreation activities (e.g. canoe rental, eco-tourism, etc.).
- c. On-site sewage treatment and disposal systems shall be located and constructed to avoid damage or contamination during flooding. In all cases where any part of a conventional on-site sewage treatment and disposal system (septic tank and drainfield) will be located at an elevation of ten feet (10') or less NGVD (1929) as shown by a survey no more than three (3) years old signed and sealed by a professional surveyor registered with the State of Florida on which the elevation of the proposed system is shown, the bottom of the drainfield shall maintain a separation of at least 36 inches above the seasonal high water table, and gravity flow shall be the sole method of transfer between the septic tank and drainfield. In lieu of providing a signed and sealed survey with elevations, an applicant may opt to install a conventional septic tank and drainfield which meets the 36 inch separation requirement as described herein. In place of installing a conventional system 36 inches about seasonal high water, the property owner may elect to install either a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; aerobic treatment units and drainfields in accordance with the department rules; or a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent. In no case, however, shall any portion of any on-site sewage disposal system be located closer than one hundred (100) feet from the DEP wetland jurisdictional line, or the Ordinary High Water line of Deer Point Reservoir, whichever is more restrictive.
- d. Stormwater discharge facilities which directly discharge to Deer Point Reservoir, Cedar Creek, Econfina Creek, Bear Creek, Bayou George Creek, or any tributary thereto shall include an additional level of treatment equal to fifty percent (50%) of the treatment standards found in the Development Code (equivalent to Outstanding Florida Waters standards).
- e. The first 100 feet landward along both sides of Econfina Creek shall be considered a scenic corridor where all construction is prohibited except for piers and docks.

SECTION 1911. Tree Protection. No property owner, builder, contractor, landscaper, business, firm or other legal person shall remove, destroy, or damage a

protected Historic, Specimen, Champion or Heritage tree located in the Urban or Suburban Service Area without first obtaining a permit from the Planning and Zoning Division. The following requirements shall apply to the removal of protected trees. In order to safeguard protected trees during development activities, the protective measures specified in Section 1916 shall be followed.

1. Protected Trees. A “protected tree” is any Historic, Specimen, Champion or Heritage tree species of *Quercus* (common name: “oak”), with a diameter at breast height of thirty inches (30”) or more.
2. Exemptions. Tree protection requirements shall not apply under the following circumstances and conditions.
 - a. Single-Family Dwellings. Construction, location, or placement of a single-family dwellings and customary accessory uses when protected trees are located within the actual building or structure “footprint”.
 - b. Utility Operations. Excavation, tree pruning and removals by duly constituted communication, water, sewer, electrical or other utility companies or federal, state, or county agencies, or engineers or surveyors working under a contract with such utility companies or agencies shall be exempt, provided the activity is limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that the activity is conducted so as to avoid unnecessary removal and, in the case of aerial electrical utility lines, is not greater than that specified by the National Electrical Safety Codes as necessary to achieve safe electrical clearances. All pruning and trimming shall be done in accordance with National Arborist Association Standards. Written notice of the areas where authorized work is anticipated shall be provided to the Division at least five (5) days prior to the work, except that when the work is needed to restore interrupted service under emergency conditions, no prior notice is required. Excavations affecting historic, specimen, champion, or heritage trees shall be limited to utility maintenance work only.
 - c. Site Investigations. Activities associated with surveying, soil borings or geotechnical research and other related activities when the removal is the minimum necessary to undertake the activity.
 - d. Rights of Way. The clearing of a path for existing or new roadway rights of way, provided that the rights of way are for existing roadways that are built in conformance with County standards or for

new roadways that will be built in conformance with County standards. The width of the path shall not exceed the right of way width standards for each type of roadway established in this Code.

- e. Commercial Growers. All commercial nurseries, botanical gardens, tree farms, grove operations and other bona fide agricultural activities shall be exempt from the provisions of this part, but only as to those trees and sites which were planted or managed for silvicultural or agricultural purposes or for sale or intended sale in the ordinary course of business, or those parcels receiving agricultural assessment for ad-valorem taxation per Florida S.S. 193.461.
 - f. Nuisance Trees. All trees listed on the Florida Exotic Pest Plant Council's List of Invasive Species or the Florida Department of Agriculture and Consumer Services, "Noxious Weeds" rule in Section 5B-57, F.A.C.
3. Conditions for Tree Removal Permit. It is the intent of this section to minimize the removal of protected trees. No permit shall be granted to remove a tree if the applicant has failed to take reasonable measures to design and locate the proposed improvements so that the number of protected trees to be removed is minimized. In particular, the design must attempt to preserve specimen, champion, heritage and historic trees.
- a. No permit for the removal of a protected tree shall be granted unless the applicant demonstrates one of more of the following conditions:
 - i. The intended, permissible use of the site cannot reasonably be undertaken unless specific trees are removed or relocated.
 - ii. The tree is located in such proximity to an existing or proposed structure that the safety, utility or structural integrity of the structure is materially impaired.
 - iii. The tree materially interferes with the location, servicing or functioning of existing utility lines or services.
 - iv. The tree creates a substantial hazard to motor, bicycle or pedestrian traffic by impairment of vision.

- v. The tree is diseased, insect ridden, or weakened by age, abuse, storm or fire and is likely to cause injury or damage to people, buildings or other improvements.
 - vi. The removal of the tree is necessary to promote the growth of surrounding protected trees. Under this provision, the applicant must demonstrate a preference for protecting historic, champion, specimen, and heritage trees.
- 4. Pruning Protected Trees. Pruning of protected trees shall be in accordance with current standard practices of the International Society of Arboriculture or the National Arborists' Association.
- 5. Historic, Specimen, Champion, and Heritage Trees.
 - a. An historic tree is one that has been designated by the Bay County Commission as one of notable historical interest and value to the County because of its location or historical association with the community.

A public hearing shall be held by the County Commission on the designation with due notice to the owner of the tree.
 - b. A specimen tree is one that has been officially designated by the County Commission to be of high value because of its type, size, age, or other relevant criteria. A public hearing on the designation shall be held by the County Commission with due notice to the owner of the tree.
 - c. A champion tree is one that has been identified by the Florida Division of Forestry as being the largest of that species in the State of Florida or by American Forests as being the largest of that species in the United States.
 - d. A heritage tree is any tree with a diameter of at least thirty inches (30") or more, as measured at 4.5 feet above ground or at the appropriate point on the trunk as indicated by accepted forestry standards.
 - e. No historic, champion, heritage or specimen tree shall be removed without a finding by the Planning Official that the tree is a hazard or that it is not economically or practically feasible to develop the parcel without removing the tree.

6. Preservation of Protected Trees and Native Vegetation as Grounds for Reduction in Required Parking.
 - a. A reduction of required parking spaces may be allowed by the Planning Official when the reduction would result in:
 - i. The preservation of a protected tree with a trunk of twelve (12) inches in diameter or greater; or,
 - ii. The preservation of native shrubs and/or ground cover in a quantity exceeding minimum requirements.
 - b. The reduction in required parking may be granted only if it will prevent the removal of a protected tree or native vegetation that is located within the area of the site designated as vehicular use area. The following reduction schedule shall apply:

Reduction Schedule	
Number of Required Parking Spaces	Reduction of Required Parking Spaces Allowable
1-4	0
5-9	1
10-19	2
20 or above	10% of total number of spaces (total reduction regardless of number of trees or percentage of native vegetation preserved)

SECTION 1912. Outstanding Florida Waters (OFW). Lake Powell, Phillips Inlet, and all tributaries to Lake Powell have been designated as Outstanding Florida Waters (OFW) (Rule 62-302.700(9) (i). Rule 62-302.700, F.A.C. directs that the “highest protection” be provided to waters designated as OFW. No degradation to water quality is allowed in these waters other than as provided in Rule 62-4.242(2), F.A.C. The following restrictions are intended to protect and maintain water quality in Lake Powell.

1. Restrict use of individual household onsite sewage treatment and disposal systems or other alternative individual household domestic waste treatment systems around Lake Powell and areas that discharge into Lake Powell. This restriction shall prohibit the location of septic tanks and their drainfields within the first 100 feet of the shoreline of Lake Powell as defined by the Department of Environmental Protection jurisdictional line. Furthermore, prohibit the location of septic tanks and their drainfields in the second 100 feet of the shoreline as defined by the U.S. Department of Environmental Protection jurisdictional line, in areas where, by virtue of topography, soil type, or groundwater type, the location of onsite sewage treatment and disposal systems may not be suited.

On all properties located adjacent to tributaries to the Lake, there shall be a 100-foot setback landward from the Department of Environmental Protection wetlands jurisdictional line within which no portion of any septic tank or its drainfield may be located.

2. Within a 200 foot distance from the shoreline of Lake Powell, all property designated "Residential" or "Seasonal/Resort" development on the Future Land Use Map, shall be designated a special low density overlay zone. Within this zone, maximum density shall be two dwelling units per acre, and land use shall be limited to single-family dwellings in which 60% of each building site must be of pervious materials. Twenty-five percent (25%) of each building site must be composed of native vegetation. Onsite sewage treatment and disposal system may be placed only in adequate soils as identified in Chapter 64 E-6, Florida Administrative Code.

SECTION 1913. Deer Point Watershed. The Deer Point Watershed is the source of the public potable water supply for Bay County. Most of the watershed is sensitive to development due to potential nonpoint pollution sources which could adversely affect water quality.

Densities shall not be increased by zoning or Comprehensive Plan map amendments in areas of high environmental constraints including wetlands, floodplains and high aquifer recharge potential within the Watershed. These areas have been identified by the North West Florida Water Management District Deer Point Reservoir SWIM Program (Figure 6) as Environmentally Sensitive Areas. High environmental constraints shall be those with a rating of three or higher.

SECTION 1914. Clustering. Developers of land may "cluster" site development to preserve or avoid damage to locally significant natural resources. The concept of clustering involves allowing development on the most suitable parts of a development site while avoiding development of environmentally sensitive areas of the site. In order for clustering to be allowed the following criteria must be met.

1. The resource to be protected or preserved must be clearly identified in the development order.
2. The minimum lot or site area requirements set forth in these regulations are not applicable to cluster development, except that under no circumstances shall a lot be less than one acre in size within the Deer Point Reservoir Protection Zone when on-site sewage disposal system (septic tank) is utilized.
3. The avoided resource must be protected or preserved in perpetuity.

4. In order to determine the allowable development on a site the number of units allowed for the whole parcel must be determined. This number of units will then be allowed on the portion of the parcel that remains after environmental resources are perpetually preserved, subject to the availability of facilities and services. Clustering may include multiple parcels when adjacent, across public rights of way, or included within a unified plan of development.
5. Resource preservation may be through common open space, or fee simple transfer with conservation easement, or other similar means.

SECTION 1915. Environmental Impact Analysis. Developers of land within designated “Ecosystem Management Areas”, “Conservation”, or “West Bay Preservation”, described in the Bay County Comprehensive Plan, or areas surrounding the Sand Hills Lakes, or any other areas where locally significant natural resources may exist, may be required to prepare an environmental impact analysis (EIA). As part of this EIA a developer must: 1) conclusively demonstrate that no locally significant natural resources are present on the land involved, or; 2) identify those locally significant natural resources that are present on the land involved and describe measures to preserve those resources or minimize the adverse impact on those resources.

The environmental impact analysis will be performed by a qualified professional. At a minimum, the analysis shall include the following data with appropriate maps and site designs:

1. Natural Resources Inventory (NRI). The identification and mapping of conservation and preservation areas located on or adjacent to the subject property. A determination of no impact may be submitted in lieu of a standard natural features inventory if the property under review is less than 10 acres in size and contains no locally significant natural resources. The analysis must address each of the resources listed in Section 1903.
2. Preservation areas. Watercourses, areas of environmental significance (springs and other active karst features).
3. Conservation areas. Altered wetlands, altered floodplains, altered floodways, altered watercourses, archaeological or historical sites.

SECTION 1916. Protection of Natural Resources. Standards for the protection of natural features identified in any environmental impact analysis must follow appropriate measures. If an adverse effect of the natural resource is unavoidable, then mitigation must occur to offset the adverse effects of the development. Details of the mitigation must be supplied with the environmental impact analysis.

1. Conservation easements. The location of conservation easements may be established to preserve the identified natural resource with the concurrence of the property owners. These easements shall be dedicated to a governmental entity and/or a third party non-profit agency.
2. Archaeological and Historical Sites. All identified archaeological and historical sites must be protected. If an unidentified archaeological or historical site is discovered during development activities, development activities must cease and desist until such time as an archeological excavation authorized by the Division of Historical Resources is conducted. Unmarked human burial grounds must be reported pursuant to Rule 1A-44, F.A.C.
3. Development Activity. During development activity, the areas surrounding the tree trunk within the full radius of the critical protection zone of every protected tree shall be protected from activities that may injure the tree, (such as cut and fill activities, building pad placements, road bed construction, construction material storage, driving or parking of heavy equipment, or trenching, etc.). The critical protection zone shall mean that area surrounding a tree within a circle described by a radius of one foot for each inch of the tree's diameter at breast height (DBH).
 - a. Exceptions to the requirements of tree protection during construction include:
 - i. Roadway and utility construction shall require protection of a reduced minimum of 80 percent of the radius of the critical protection zone.
 - ii. Where adequate mitigation is provided, as determined by the Planning Official, for any additional encroachment.
 - iii. Where specific analysis is provided by the applicant or when tree characteristics or site conditions, such as previous disturbances, are such to indicate that there is no basis to assume adverse impact as a result of additional encroachment.
 - b. Prior to development, including mechanized land clearing or any underground installations except boring, protective barriers shall be installed around each protected tree not permitted for removal, so as to minimize destruction of or damage to roots, stems, or crowns of such trees. Barriers shall remain in place and intact throughout construction until their removal is approved by the Planning Official. Barrier shall be as follows:

- i. Posts (uprights) shall be placed at the critical protection zone boundary of each tree not permitted for removal, except in right-of-way or utility placement areas where they may be placed at 8- percent of the radius of the critical protection zone if approved by the Planning Official.
- ii. Posts (uprights) shall be nominal two-inch by four-inch or larger wood lumber, 1.5-inch outer diameter or larger pipe or other suitable material or drive-in type steel fence posts. Posts shall be implanted deep enough in the ground to be stable and must extend to a minimum height of four (4) feet above ground level. Sufficient numbers of posts shall be used so that they are not more than 7.5 feet apart. Posts shall be strung with at least (1), one-inch by four-inch wooden stringer at least 30 inches off the ground or with minimum four foot high conventional wire fencing. Stringers or fencing shall be clearly flagged or otherwise marked for good visibility.
- iii. Where groups of protected trees occur with overlapping critical protection zones, the above post and stringer barrier system can be installed around the group instead of individual trees. The outer extent of installation shall be determined by the critical protection zone radii of the perimeter trees in the group.
- iv. Additional barrier techniques and materials may be required by the Planning Official as deemed necessary.

SECTION 1917. Turtle Lighting (Ord. No. 09-16). The purpose of this Section is to reduce the potential impact of artificial coastal lighting on marine turtles that nest on the beach by restricting artificial lighting that may disorient marine turtle hatchlings, causing them to crawl toward land rather than toward the Gulf. This Section is intended to provide overall improvements in nesting habitat degraded by light pollution, increase successful production of hatchlings and increase the number of marine turtles without jeopardizing public safety or the security of persons or property. In addition, it is the intent of this article to minimize increases in light on the beach, which may be caused by widening and raising the beach through beach renourishment. The County finds, as the State of Florida has found, that renourishment is of exceptional importance and of great public benefit, and finds renourishment of the Panama City beaches to be of benefit to marine turtles.

1. Definitions.

“Artificial light source” or “point source” means any fixed, point or linear source of light emanating from a glowing element, glowing gas, or light emitting diode (LED) (e.g. the lamp or bulb of an artificial light source).

“Beach” means that area of unconsolidated material that extends landward from the mean low-water line of the Gulf of Mexico, to the frontal dune or where there is no frontal dune to the line of permanent vegetation or construction whichever is more seaward.

“Beachfront” means that portion of the following described area located within the unincorporated areas of Bay County, to wit, starting west to east:

Pinnacle Port: the seaward boundary of the right of way (ROW) of Alt. US Highway 98 (herein Front Beach Road).

Carillon: the seaward boundary of the Beachside Drive ROW.

Ramsgate to west boundary of Panama City Beach: the seaward boundary of the Front Beach Road ROW.

West boundary of City of Panama City Beach to South Thomas Drive: the seaward boundary of Front Beach Road ROW.

South Thomas Drive to east boundary of City of Panama City Beach: the seaward boundary of the ROW of either South Thomas Drive or Thomas Drive, as applicable.

East Boundary of the City of Panama City Beach to Spyglass Drive: The seaward boundary of the ROW of either Surf Drive or Gulf Drive, as applicable.

Spyglass Drive to St Andrew State Park boundary: The CCCL.

“Bug Lamp” means any yellow colored light bulb that is specifically treated in such a way to reduce the attraction of bugs to the light, but does not include bug-killing devices.

“Coastal Construction Control Line” (CCCL) means the line established by the State of Florida pursuant to section 161.053, Florida Statutes, and filed in the public records of Bay County, which defines that portion of the beach dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

“Comprehensive flood light” means an artificial light source and fixture positioned above the exterior premises or grounds of a hotel or condominium and specifically designed to illuminate the exterior premises or grounds in lieu of multiple, traditional light sources such as balcony lights, deck lights, walkway lights, breezeway lights, et cetera. The

absence in the design and construction of an existing development of such traditional light sources capable of safely illuminating an area improved for human occupancy is indispensable to a finding that a particular light is a “comprehensive flood light.”

“Disconnected” means the complete separation of a light fixture from its energy source by a key-locked device with the key separately secured, or similar means other than merely an operating switch, valve or service disconnect.

“Exterior” means not located within an enclosed, heated and cooled space of a structure.

“Existing development” means structures existing on May 1, 2009 or development for which an essentially complete application for issuance of a building permit has been submitted to the County prior to May 1, 2009.

“Frontal dune” means the first natural or manmade mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity and configuration to offer storm protective value.

“Good faith” means having an open mind and sincere desire to achieve the intent of this ordinance: it is a matter of intent and a state of mind, which usually can be determined only by inference from a party’s conduct.

“Illuminate” means to make bright with light, to bath in light, or to light up artificially with brilliant lights.

“In use” means operable and includes temporary periods of maintenance or replacement.

“Light fixture” means the housing of an artificial light source.

“Line-of-sight from the beach” or “visible from the beach” means capable of being observed by a pedestrian walking or standing on the beach.

“Marine turtle” means any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or using the beach as a nesting habitat, including the species: *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricatqa* (hawksbill), and *Lepidochelys kempi* (Kemp’s ridley). For purposes of this section, marine turtle is synonymous with sea turtle.

“Nesting season” means the period from May 1 through October 31 of each year, from 9:00 P.M. until 5:00 A.M. daily.

“New development” means the result of new construction, or of the remodeling, renovation, redevelopment, repair or replacement of an existing structure when the cost of such remodeling, renovation, redevelopment, repair or replacement without consideration of any additional costs associated with meeting the turtle-friendly lighting and tinted window standards established for new development by this ordinance (regardless of the reason for such work) exceeds fifty percent (50%) of the replacement cost of the structure at the time work is commenced, for which an essentially complete application for issuance of a building permit has been submitted to the County on or after May 1, 2009.

“New exterior light fixture” means an exterior light fixture, regardless of age, installed in a new location and not replacing a pre-existing fixture at materially the same location.

“New window” or “new door” means an exterior window or door, regardless of age, installed in a new location and not replacing a pre-existing window or door at materially the same location.

“New lighted sign” means an exterior lighted sign, regardless of age, installed in a new location and not replacing a pre-existing lighted sign at materially the same location.

“Point source of light” see “artificial light source.”

“Tinted Glass” means any glass tinted (including adhered film) to achieve an industry-approved inside-to-outside light transmittal value of forty-five (45) percent or less. Such transmittance is limited to the visible spectrum (four hundred (400) to seven hundred (700) nanometers) and is measured as the percentage of light that is transmitted through the glass.

“Turtle Light Fixture” means a light fixture in which the artificial light source is contained within a full cut-off or fully shielded housing or structure such that no light is broadcast above a horizontal plane.

“Turtle Lamp” means low pressure sodium vapor lamps, incandescent bug lamps, 11 watt compact fluorescent bug lamps, “turtle safe lighting” (“TSL”) sleeved fluorescent lamps, amber and red light emitting diodes (LED), true red neon lamps, other lamps certified by Florida Fish and Wildlife Conservation Commission as “Wildlife Lighting” (found at http://myfwc.com/WILDLIFEHABITATS/seaturtle_index.htm), lights approved by the Florida Department of Environmental Protection, and other artificial light sources emitting predominately long-wavelength light (570 or greater nanometers which are in the yellow, orange or red light spectrum).

“Visible from the beach” or “in line-of-sight from the beach” means capable of being observed by a pedestrian walking or standing on the beach.

2. Prohibited lighting disruptive to marine turtles.
 - a. Lighting standards for new development. Each owner, operator and person entitled to operate beachfront new development shall cause such development to comply with the following:
 1. Each exterior light fixture on the beachfront where the point source of light is visible from the beach shall be either:
 - i. a turtle light fixture mounted as low as practicable for its intended application and containing only one or more turtle lamps, or
 - ii. disconnected at all times during marine turtle nesting season.
 2. Each exterior light fixture on the beachfront and not in line-of-sight from the beach but which causes light to be reflected off a surface, which is visible from the beach, shall be either:
 - i. a turtle light fixture, or
 - ii. disconnected at all times during marine turtle nesting season.
 3. Notwithstanding the forgoing, parking lot or vehicle access area light fixtures on the beachfront and which are in line-of-sight from the beach may use turtle light fixtures with low pressure sodium lamps, provided that additional shielding is installed if the point source is visible from the beach so that the point source is not visible from the beach.
 4. Tinted glass shall be installed on all windows and glass doors on the beachfront and which are in line-of-sight from the beach.
 5. All lighted signs on the beachfront and which are in line-of-sight from the beach shall be externally illuminated from above (downward) with full cut-off fixtures.
 6. Should the light fixtures practically permitted by this subsection (lighting standards for new development) provide illumination of areas improved for human occupancy which is insufficient to comply with applicable law or to meet a duty of care for the safety or security of persons or property

recognized by statute, regulation or common law, including but not limited to the Florida Department of Health or the Florida Building Code regulations for lighting swimming pools and water features or the safe lighting standards for the applicable property use as published in the IES Lighting Handbook by the Illuminating Engineering Society of North America, then turtle light fixtures with any lamps (or if turtle light fixtures are impracticable to meet safety and security requirements other fixtures with any lamps) positioned to minimize illumination of the beach, including but not limited to high pressure sodium or metal halide lamps, may be used to comply with or meet, but not exceed, the minimum average maintained illumination required by such law or duty.

7. In addition to the forgoing mandatory requirements, in order to minimize light emanating from interior spaces, voluntary compliance with one or more of the following is recommended:
 - i. install and use window treatments (shades, blinds, etc.) to shield interior lights from the beach at night during marine turtle nesting,
 - ii. rearrange lamps and other moveable light fixtures away from windows, and
 - iii. turn off unnecessary lights.
- b. Lighting standards for existing development. Each owner, operator and person entitled to operate beachfront existing development shall cause such development to comply with the following:
 1. Each new exterior light fixture on the beachfront which is added to existing development after May 1, 2009 and which is either in line-of-sight of the beach or which causes light to be reflected off a surface which is visible from the Beach shall comply with sub-section 2 a above, unless such new fixture is permitted by sub-section 2 b (10), below.
 2. Each exterior light fixture on the beachfront where the point source of light is visible from the beach (except a comprehensive floodlight) shall be repositioned, modified, or removed so that the point source is not visible from the beach, or replaced with or modified to become a turtle light fixture containing only one or more turtle lamps, upon replacement of such fixture but no later than May 1, 2013, or

removed by that date. In lieu of compliance with this subsection, such fixture or its replacement may be disconnected at all times during marine turtle nesting season.

3. Each exterior light fixture on the beachfront and not in line-of-sight from the beach (except a comprehensive floodlight) but which causes light to be reflected off a surface visible from the beach shall be replaced with or modified to become a turtle light fixture upon replacement of such fixture but no later than May 1, 2013, or removed by that date. In lieu of compliance with this sub-section, such fixture or its replacement may be disconnected at all times during marine turtle nesting season.
4. Notwithstanding the forgoing, parking lot or vehicle access area light fixtures on the beachfront and which are in line-of-sight from the beach may use turtle light fixtures with low pressure sodium lamps, provided that additional shielding is installed if the point source is visible from the beach in order to minimize that visibility.
5. On or before May 1, 2010, each comprehensive floodlight on the beachfront and in line-of-sight of the beach shall be
 - i. removed, or
 - ii. replaced with turtle light fixtures containing only one or more turtle lamps, or
 - iii. shielded, positioned, modified or replaced to make the point source not visible from the beach. In lieu of compliance with this sub-section, such fixture or its replacement may be disconnected at all times during marine turtle nesting season. Notwithstanding the forgoing, where such floodlight has been shielded and positioned as much as practicable (including replacement of the fixture if necessary in order to better shield or reposition it) in a good faith effort to make the point source not visible from the beach while still allowing the fixture to fulfill its function, but the height of the fixture has frustrated that effort, the fixture shall be deemed in compliance with this subsection if its light falls predominately off the beach.
6. New windows and new glass doors on the beachfront and which are in line-of-sight from the beach for which permit

application is made or materially completed after May 1, 2009 shall comply with sub-section 2 a, above.

7. All lighted signs on the beachfront and which are in line-of-sight from the beach that are replaced or retrofitted as part of new development shall be externally illuminated from above (downward) with full cut-off fixtures.
8. New lighted signs on the beachfront and which are in line-of-sight from the beach for which permit application is made or materially completed after May 1, 2009 shall comply with sub-section 2 a, above.
9. Existing development which becomes new development shall comply with the requirements of sub-section 2 a, above.
10. Should compliance with this section 2 b (lighting standards for existing development) reduce illumination of areas improved for human occupancy which is insufficient to comply with applicable law or to meet a duty of care for the safety or security of persons or property recognized by statute, regulation or common law, including but not limited to the Florida Department of Health or the Florida Building Code regulations for lighting swimming pools and water features or the safe lighting standards for the applicable property use as published in the IES Lighting Handbook by the Illuminating Engineering Society of North America, then turtle light fixtures with any lamps (or if turtle light fixtures are impracticable due to existing conditions, other fixtures with any lamps) positioned to minimize illumination of the beach may be used to comply with or meet, but not exceed, the minimum average maintained illumination required by such law or duty.
11. In addition to the forgoing mandatory requirements, in order to minimize light emanating from interior spaces, voluntary compliance with one or more of the following is recommended:
 - i. install tinted glass on all windows and glass doors in line-of-sight from the beach,
 - ii. install and use widow treatments (shades, blinds, etc.) to shield interior lights from the beach at night during marine turtle nesting,

- iii. rearrange lamps and other moveable light fixtures away from windows, and
 - iv. turn off unnecessary lights.
 - c. Exemptions.
 - 1. If otherwise allowed by applicable state or federal permits, temporary security and safety lights at active construction sites shall be permitted provided they are not mounted more than fifteen (15) feet above the ground, or higher where required by law. Illumination from the lights shall be the minimum necessary to assure security and safety or as required by the Occupational Safety and Health Administration (OSHA), shall only illuminate the construction area and shall not illuminate the beach.
 - 2. Lighting approved by the Florida Department of Environmental Protection as part of a permit to construct improvements seaward of the CCCL shall be exempt from the provisions of this Section.
 - 3. Lighting not meeting the provisions of this ordinance shall be authorized at any time during the period of emergencies.
- 3. Administration.
 - a. This ordinance shall be administered by the Code Enforcement Officer who shall make all administrative decisions, interpretations and determinations.
 - b. This ordinance shall be enforced by a Code Enforcement Officer pursuant to Chapter 7 of the Bay County Code of Ordinances as amended from time to time ("Chapter 7").