

Topic: Wildlife & Fish Habitat; Overlay District
Resource Type: Regulations
State: Florida
Jurisdiction Type: Municipal
Municipality: City of Tampa
Year (adopted, written, etc.): 2003
Community Type - applicable to: Urban; Suburban
Title: City of Tampa Upland Habitat Protection Ordinance
Document Last Updated in Database: May 4, 2017

Abstract

The Upland Habitat Protection Ordinance was designed to protect the xeric and mesic plant communities and wildlife habitat in Tampa. The ordinance achieves this by establishing an overlay district and requiring plan approval before the commencement of development within the district.

Resource

CODE OF ORDINANCES City of TAMPA, FLORIDA Codified through Ord. No. 2003-58, enacted Feb. 27, 2003. (Supplement No. 45)
Chapter 17.5 PLANNING AND LAND DEVELOPMENT*
ARTICLE V. UPLAND HABITAT PROTECTION

ARTICLE V. UPLAND HABITAT PROTECTION
DIVISION 1. GENERAL PROVISIONS; ADMINISTRATIVE AUTHORITY; DEFINITIONS.

Sec. 17.5-91. Purpose and legislative intent.

The decision by the owner about whether and how to develop a parcel of land, and the decision by the City of Tampa to approve or disapprove proposed development, may depend on the impact that the proposed development will have on natural resources, upland habitat and public facilities. This article establishes standards and procedures by which these impacts will be determined, and by which the City of Tampa will approve or disapprove the development in light of such impacts.

In the City of Tampa, most of the original upland wildlife habitat has been replaced with urban or suburban development. The remaining upland habitat is comprised of xeric and mesic natural plant communities that 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 remaining

habitat diversity and wildlife corridors and to maintain healthy and diverse populations of wildlife.

(1) Purpose. The purpose of the Upland Habitat Protection Ordinance is to set forth regulations for the protection of the few high quality xeric and mesic natural plant communities and wildlife habitat which remain in the City of Tampa, and for the protection of remaining large contiguous environmentally sensitive areas, in order to retain habitat diversity and wildlife corridors and to maintain the quality of life in the City of Tampa and protect the health, safety, welfare and general well being of the citizens of the City of Tampa.

(2) Intent. It is intended that the implementation of these regulations accomplish the following objectives:

a. Maximize the retention of existing xeric and mesic natural plant communities which constitute significant wildlife habitat and upland habitat for threatened and endangered plant and wildlife species and species of special concern, a valuable natural resource of the community.

b. Create an aesthetically pleasing and functional living environment to protect and enhance property values by conserving remaining scarce xeric and mesic natural plant communities.

c. Protect remaining large contiguous environmentally sensitive areas from activities which would alter their ecological integrity, balance or character.

d. Protect surface water flow and promote soil conservation by controlling filling activities and changes in drainage patterns.

e. Ensure compliance with Chapter 163, Florida Statutes, and the City of Tampa Comprehensive Plan.

f. Ensure that owners and/or developers of property containing areas designated as significant or essential wildlife habitat shall not be unconstitutionally deprived of their property nor be inordinately burdened by the application of these regulations in violation of Fla. Stat. §70.01; in furtherance thereof, it is the intent of the City of Tampa to provide alternative mechanisms, such as off-site preservation, to achieve the purposes of these regulations while at the same time respecting the rights of the property owners as set forth herein.

g. Article II, Section 7 of the Florida Constitution provides that it shall be the policy of the state to conserve and protect its natural resources and scenic beauty, and that, effective July 1, 1999, adequate provision shall be made by law for the conservation and protection of natural resources.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-92. Definitions.

For the purpose of this article, certain abbreviations, terms, phrases, words and their derivatives shall have the meanings set forth below; words not defined herein shall be interpreted in accordance with section 1-3 of the City Code.

Acquisition: As used in this article of this Code, the action of transferring fee simple interest in a parcel of land to a governmental or non-profit land conservation agency for the preservation in perpetuity of the land for the protection of a particular species, natural area or other environmental resource.

Clearing: The removal of trees, shrubs and other vegetation from the existing ground surface. Clearing is usually undertaken where subsequent land alteration, construction or agricultural activities are to occur.

Conservation areas: See "Environmentally sensitive areas."

Cypress swamp: Forested plant community dominated by cypress trees, with water at or above the ground level during the rainy season or for a considerable portion of the year. Associated trees and shrubs include swamp black gum, red maple, sweet bay, buttonbush, fetterbush, and dahoon holly.

Developer: Any person who seeks to conduct land alteration, site clearing, filling, or construction of any type on a parcel of land, and may include the owner of the parcel or any person authorized to act on behalf of the owner.

Dry prairie: Dry prairies are plains with few or no trees. Scattered bayheads, cypress ponds, freshwater marshes and wet prairies often occur in dry prairie areas. Dry prairie appear to be flatwoods minus the overstory trees, containing similar vegetative ground cover. The dry prairie community is dominated by many species of grasses such as wiregrass, broomsedges and several types of carpet grasses. Palmettos are the most common shrubby plant over large areas, with fetterbush, staggerbush, and blueberry common in places. Also, like pine flatwoods, water is at or near the surface during the wet season and slowly drains to lower lying areas by sheet flow. Representative soils: Eaton, Immokalee, Myakka, Smyrna, and Ona.

Endangered and threatened species: Flora and fauna as identified by the U.S. Fish and Wildlife Service's "List of Endangered and Threatened Wildlife and Plants" in 50 CFR 17.11-12. Fauna identified by the Florida Game and Fresh Water Fish Commission in Section 9-27.03-05, FAC, and flora identified by the Department of Agriculture and Consumer Services "Preservation of Native Flora Act," Section 581.185-187, Florida Statutes. Endangered species are so designated due to manmade or natural factors which have placed them in imminent danger of extinction, while threatened species are so designated due to rapid decline in number of habitat such that they are likely to become endangered without corrective action.

Environmentally sensitive areas: Lands that, by virtue of some qualifying environmental characteristic (e.g., wildlife habitat), are regulated by either the Florida Department of Environmental Protection, the Southwest Florida Water Management District, or any other governmental agency empowered by law for such regulation. Environmentally sensitive areas include Conservation Areas and Preservation Areas. Conservation Areas include the following types of wetlands(w), natural water bodies(nwb), and uplands(u); freshwater marshes(w), wet prairies(w), hardwood swamps(w), cypress swamps(w), natural shorelines other than natural beaches and dunes(w), Class III Waters(w, nwb), and significant wildlife (w, nwb, u). Preservation Areas include the following types of wetlands, natural water bodies and uplands; coastal marshes(w), mangrove swamps(w), marine grassbeds(w, nwb), natural beaches and dunes(w, u), Class I and II Waters(w, nwb), aquatic preserves(w, nwb), essential wildlife habitat(w, nwb, u), and natural preserves(w, nwb, u).

Essential wildlife habitat: Land or water bodies that, through the provision of breeding or feeding habitat, are necessary to the survival of endangered or threatened plant and animal species, or species of special concern, as determined by the Florida Game and Freshwater Fish Commission or the U.S. Fish and Wildlife Service.

Freshwater marsh: Herbaceous plant community occurring on lands where the soil is saturated or submerged during part of the year. Freshwater marshes include a number of vegetative types such as flag marshes (dominated by picerelweed, arrowhead and other non-grass herbs), sawgrass marshes, bulrush marshes and shrub marshes.

Grading: Leveling or planing land to a smooth horizontal or sloping land surface by the use of mechanical leveling or grading equipment or, in the case of stockpiled soil, other mechanical equipment.

Grubbing: The removal of understory vegetation including the removal of any tree with a DBH less than five (5) inches by the use of mechanical equipment, provided no understory vegetation is removed within the dripline of any tree with a DBH of five (5) inches or greater or within an environmentally sensitive area. In the case of the natural plant community vegetation outside of environmentally sensitive areas, grubbing is the removal of understory vegetation necessary to provide limited access to the parcel.

Hardwood swamp: Deciduous and evergreen hardwood forest community occurring on lands where the soil is saturated or submerged during part of the year. This major habitat category includes riverine swamps, and usually but not always includes floodplain forests, bay forests and red maple forests.

Land alteration: Any activity which removes vegetation from or changes the topography of the land by grubbing, tree removal, clearing, grading, filling or excavating, except for activities undertaken to maintain existing grounds.

Listed animal species: Animal species which are identified as endangered, threatened, or species of special concern in Chapter 39, Florida Administrative Code, and occur in the City of Tampa.

Listed plant species: Plant species which are identified as endangered or threatened by the Florida Department of Agriculture and Consumer Services or the United States Fish and Wildlife Service, and occur in the City of Tampa.

Listed species: All species of plants and animals which are listed as threatened, endangered or species of special concern in Chapter 39, Florida Administrative Code, or by the Florida Department of Agriculture and Consumer Services or the United States Fish and Wildlife Service, and occur in the City of Tampa.

Management plan: A plan prepared to address preservation/restoration and management of significant or essential wildlife habitat, and which is approved by the city in accordance with this article. The management plan describes and depicts the location of areas to be preserved, including any protective buffers. The plan indicates the location of individuals of listed species, their nest sites, dens, burrows, feeding locations, roosting and perching areas, and trails, as appropriate. The plan identifies habitat management activities and contains an action plan with specific implementation activities, schedules, and assignments of responsibilities.

Mesic habitats: Mesic habitats are moderately moist habitats. Mesic habitats occur as dry to moist, level to hilly uplands on poorly to somewhat poorly drained soils containing variable amounts of clay or organic material, and support a diverse array of mesic-adapted plants and animals. Mesic habitats occurring in the City of Tampa include pine flatwoods, dry prairies and mesic hammocks.

Mesic hammocks: Mesic hammocks, also known as upland hardwood forest, constitute the climax community of the area. There is no single dominant stress factor in most mesic hammocks. The result is a high plant diversity, particularly in the mature successional stages. Fire does not normally play a major role in this community. A variety of hardwood trees are found in this community and occur on fairly rich, sandy soils. Southern magnolia, laurel oak, American holly, dogwood, pignut hickory and live oak are characteristic species of this association. Variations in the species composition of mesic hammocks are partially due to differences in soil moisture. A major variation of this vegetation association is the live oak-cabbage palm hammock. Live oak-cabbage palm hammocks often border large lakes and rivers. Because this variant community type often functions as an ecotonal area adjacent to wetlands, it affords suitable habitat for a wide variety of plants and animals. Representative soils: Fort Meade, Gainesville, Millhopper, Kendrick, Lochloosa, Zolfo, Winder and Pinellas.

Native: An adjective used to describe species of flora and fauna which naturally occur in Hillsborough County and the City of Tampa; not to mean naturalized or indigenous species which originate from outside the city.

Natural plant communities: Naturally occurring stands of native plant associations exhibiting minimal signs of anthropogenic disturbance. Specific community types can be identified by characteristic dominant plant species composition. Community types found in the City of Tampa include pine flatwoods, dry prairie, sand pine scrub, sandhill, scrubby

flatwoods, xeric oak scrub, xeric hammock, mesic hammock, hardwood swamps, cypress swamps, freshwater marsh, wet prairies, coastal marsh, mangrove swamp, coastal strand (see natural beaches and dunes) and marine grasslands.

Natural preserves: Publicly or privately owned lands or waters set aside for preservation in their natural state.

Natural shorelines (other than natural beaches and dunes): All emergent and submerge lands which are not classified as Preservation Areas, which border Class I, II or III Waters, which are within the mean annual floodplain of said waters and whose topography has not been significantly altered by human activity.

Non-profit land conservation agency or organization: An agency or organization whose purpose is the preservation of natural areas, and which is exempt from federal income tax under Section 501(c)(3) of the United States Internal Revenue Code.

Off-site conservation fund: A fund established for the purpose of acquisition, restoration and management of significant or essential wildlife habitat. The fund shall be managed by a local government or the local government may contract with a non-profit land conservation agency or organization to manage such fund.

Off-site preservation land bank: An area of land in the City of Tampa or Hillsborough County which is approved by the City as appropriate for off-site preservation of upland habitats as provided in this article and which is in either public or private ownership or has been acquired by a non-profit land conservation organization for the purpose of being used as a land bank for the preservation or restoration of land.

Permanently protected: Ownership of the fee simple title of land by, or the establishment of a permanent conservation easement containing restrictions substantially similar to those in Section 704.06, Florida Statutes (1993), in favor of the City of Tampa or other land conservation governmental agency, or a private, non-profit land conservation organization.

Pine flatwoods: Pine flatwoods occur on level areas and are characterized by one (1) or more species of pine as the dominant tree species. The soils of flatwoods are sandy with a moderate amount of organic matter in the top few centimeters, and an acid, organic hardpan one (1) to three (3) feet beneath the surface. This hardpan reduces rainfall percolation, reduces the upward movement of water, and impeded root penetration during droughts. Two (2) major types of flatwoods occur in Hillsborough County. Long-leaf pine flatwoods are found on well-drained sites and are characterized by having long-leaf pine as the dominant overstory tree. Slash pine flatwoods, with slash pine as the dominant overstory species, usually occur in areas of intermediate wetness. Considerable overlap in understory plants exist between the two (2) major types of flatwoods, with many species found in both communities. Generally however, gallberry and saw palmetto dominate the understory in slash pine flatwoods, and wiregrass and runner oaks are especially prevalent in longleaf pine flatwoods. Flatwoods also often contain cypress domes, bay heads, freshwater marshes and wet prairies. Two (2) variants of this plant community are

cabbage palm flatwoods and scrubby flatwoods. Cabbage palm flatwoods typically occur in low, flat coastal areas. Here the dominant overstory trees are cabbage palm and slash pine and the understory is sparse. Ground cover consists of more water tolerant, herbaceous species. Scrubby flatwoods often occur on drier ridges in flatwoods. The overstory tree of this vegetation type may be either slash pine, longleaf pine or sand pine scrub. In some cases, pines may be absent. Fire and water are the two (2) main determinants of flatwoods ecology. Slash pine flatwoods are subject to less moisture stress and have the highest species diversity. Fire is instrumental in reducing competition from hardwoods, but does not occur often enough to kill the young, fire-sensitive slash pines. Long-leaf pine flatwoods are stressed by a relative lack of water, which reduces plant diversity. Fire is important in hardwood suppression and in making an area suitable for longleaf pine germination. The longleaf pine is particularly well adapted to fire and is immune to ground fires at almost all stages of growth. A mixed hardwood and pine forest is a successional stage of pine flatwoods where fire is no longer a controlling factor in suppressing hardwoods. Representative soils: Eaton, Immokalee, Myakka, Smyrna, Ona, St. Johns and Wabasso.

Plat, preliminary: A map or delineated representation of the subdivision of land, being a complete, but conceptual representation of the subdivision and containing certain other data as required by the ordinance.

Preservation: As this term is used in this article, preservation means the protection and maintenance of the integrity of a species and its habitat, or a natural plant community, from the direct and secondary impacts of development.

Preservation areas: See "Environmentally sensitive areas."

Protective barrier: A physical structure not less than four (4) feet in height, composed of wood or other suitable materials, limiting access to a protected area to assure compliance with the intent of this Code. Natural areas to be preserved, such as conservation areas, preservation areas, areas where the vegetation of natural plant communities is retained and other areas where land alteration is not authorized, can be protected during land alteration and construction activities by placing stakes, or other acceptable materials, at the perimeter of such areas a maximum of twenty-five (25) feet apart, and tying twine flagged with plastic surveying tape from stake to stake along the perimeter of such areas to be preserved.

Restoration: The process of reestablishing natural plant communities and moisture conditions which are at least the ecologically functional equivalent of the pre-disturbed land.

Sandhill: Sandhill communities occur on well-drained, white to yellowish sands. The sands are usually deep and relatively sterile, but contain more organic matter than the soils of the sand pine scrub community. Long-leaf pines form a scattered overstory in mature natural sands. In many areas of this community, xeric oaks, such as turkey oak and bluejack oak, which were originally small understory trees, now form the overstory as a result of logging of the pines and prevention of fire. Where the pines are not present, the community is

known as xeric hammock. Although tree species diversity is low, there is a wide variety of herbaceous plants, such as wiregrass, beggar's tick, Paridae pea, queen's delight, tread softly and other plants, which provide fairly complete ground cover. Fire is also a dominant factor in the ecology of this community. The interrelationships of the sandhill vegetation types, particularly the longleaf pine/wiregrass relationship, are dependent on frequent ground fires. The longleaf pine is sensitive to hardwood competition, and wiregrass plays a major role in preventing the germination of hardwood seeds while ensuring that there is sufficient fuel build-up on the floor of the community to carry a fire over large areas. The burrowing habits of many of the animals of this association play a significant role in recycling the easily leached nutrients to the surface. Representative soils: Candle, Lake, Orlando, and Tavares.

Sand pine scrub: A plant community found almost exclusively on relict dunes or other marine features created along present and former shorelines. The soil is composed of well-washed and sterile sands. This community is typically two-layered, with sand pine occupying the top layer and various scrubby oaks and other scrub species making up a thick, often clumped understory. Where sand pines are not present, the community is known as xeric oak scrub. Little herbaceous ground cover exists, and large areas of bare sand occur frequently. Typical understory plants include myrtle oak, sand live oak, Florida rosemary, Chapman's oak, scrub holly, and sickbay. Florida bluestem grass also is a good indicator species of scrub communities. Sand pine scrub is essentially a fire-based community. Ground vegetation is extremely sparse and leaf fall is minimal, thus reducing the chance of frequent ground fires so important in the sandhill community. As the sand pines mature, however, they retain most of their branches and build up large fuel supplies in the crowns. When a fire does occur, this fuel supply, in combination with the resinous needles and high stand density, ensures a hot, fast burning fire. The pine seeds are released by the heat of the fire. Thus, fires allow for regeneration of the sand pine community, which would otherwise become a xeric oak scrub hardwood community. This type of fire regeneration usually results in even-aged stands of trees. Representative soils: Archibald, Pomelo and Arsenio.

Scrubby flatwoods: Scrubby flatwoods are a xeric variant of pine flatwoods. Representative soils: Pomello, Archbold, and Orsino. See Pine Flatwoods.

Secondary impacts of development: The indirect developmental impacts to a species or its habitat, or to a natural plant community, from activities including, but not limited to, those related to the introduction of domestic animals or motorized vehicles, noise, man-induced hydrological changes, suppression of fire in areas naturally adapted to fire, and pesticide and fertilizer applications, that adversely impact the individuals of a species, its habitats, or a natural plant community.

Shall: A mandatory condition where the word "shall" is used, the requirement is considered to be mandatory.

Should: An advisory condition where the word "should" is used, the requirement is advisable, recommended, but not mandatory.

Significant wildlife habitat: Contiguous stands of natural plant communities which have the potential to support healthy and diverse populations of native plants and animals and which have been identified in the City of Tampa's Upland Habitat Protection Map. Areas which have been identified on the Map as Significant Wildlife Habitat may, incidentally, include wetlands as delineated by the Hillsborough County Environmental Protection Commission ("EPC").

Species of special concern: Faunal species identified in Section 39-27.03-05 FAC which warrant special protection, recognition or considerable because it has an inherent significant vulnerability to habitat modification, environmental alteration, human disturbance, or substantial human exploitation which, in the foreseeable future, may result in its becoming a threatened species; may already meet certain criteria for designation as a threatened species but for which conclusive data are limited or lacking; may occupy such an unusually vital and essential ecological niche that should it decline significantly in numbers or distribution other species would be adversely affected to a significant degree; or has not sufficiently recovered from past population depletion.

Sufficient management capability: Sufficient management capability means it is possible to adequately manage and maintain an on-site preservation-site for the long-term continuance of the species or natural plant communities proposed for preservation considering the size and shape of its site, its location, its adjacent and proximate land uses, and the current condition and life history requirements of the species on the site.

Survey: The orderly process of determining data relating to the natural, physical or chemical characteristics of the earth and may be further defined according to the type of data obtained, the methods and instruments used, and the purpose to be served. All surveys showing land boundary information must be in accordance with Rule 21HH-6 of the Minimum Technical Standard for Land Surveys in the State of Florida.

Threatened species: See "Endangered and threatened species."

Understory vegetation: Native plants typical of natural plant communities consisting of the ground vegetation excluding trees five (5) inches DBH and larger.

Upland: Upland is terrestrial land. Upland does not include wetlands or natural or manmade bodies of water such as lakes, streams, rivers, bays, borrow pits which contain water, canals, and channels.

Urban: Generally refers to an area having the characteristics of a city, with intense development and a wide range of public facilities and services. For purposes of notification distances, urban refers to areas designated by the Comprehensive Plan as being in the Residential-3 category or above (more intense).

Urban development: Development containing mixed uses, areas for the gathering of people with attractors, activities, items of visual interest, and seating areas, and other urban elements, such as pedestrian amenities, works of art and increased landscaping.

Wetlands: Wetlands shall be as defined in section 13-4 of the City Code.

Xeric oak scrub: (See "Sand pine scrub").

Xeric habitats: Xeric habitats are those in which there is a deficiency in available moisture for the support of life. Xeric habitats occur as very dry, nearly level to hilly uplands on deep, moderately well to excessively drained sandy soils, and support a diverse assemblage of xeric-adapted plants and animals. Xeric habitats occurring in Hillsborough County and the City of Tampa include sand pine scrub, xeric oak scrub, sandhills, xeric hammocks and scrubby flatwoods.

Xeric hammock: Xeric hammocks are characterized by live oaks occurring on a well-drained, deep sand substrata. The soils are similar to those of the sand pine scrub and sandhills, except that a small amount of humus is found in the upper layer of the xeric hammock community due to the thicker vegetation and the absence of fire. Other trees often present include turkey oak, bluejack oak, Chapman's oak, myrtle oak, black cherry and cabbage palm. The scrub layer includes sparkleberry, American beautyberry, yaupon and saw palmetto. Herbaceous ground cover is sparse, but numerous species of climbing vines are present, including greenbriar, grape and Virginia creeper. Representative soils: Pomelo, Archbold, Lake, Candler and Orsino.

Xeric oak scrub: (See "Sand pine scrub").

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-93. Administrative authority.

The provisions of this article shall be administered and enforced by the official. For purposes of administration of the provisions of this article, the official's designee shall be the parks department uplands habitat coordinator, "coordinator".

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-94. Administrative guidelines.

The city may adopt administrative guidelines in the form of rules of procedure and regulations for the administration and enforcement of this article. Such rules and regulations, if developed, shall be contained in the Upland Habitat Development Review Manual.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-95. Upland habitat overlay district established; applicability.

(a) Upland habitat overlay district established; boundaries. The upland habitat overlay district is hereby established as a separate district. The boundaries of the district are

shown on the City of Tampa's Upland Habitat Protection Map, dated May 18, 1999, on file in the office of the city clerk, which map is herein adopted by reference. The boundaries of the upland habitat overlay district are more specifically described as follows:

That portion of the jurisdictional limits of the City of Tampa, as they now or may hereafter exist, lying north of Fletcher Avenue.

(b) Applicability. The provisions of this article shall apply to all buildings, improvements and land within the upland habitat overlay district, unless they are expressly exempted by law, or as provided herein. Before the city issues an approval for a development of regional impact ("DRI"), rezoning, subdivision approval, or a site or building permit for any development on a parcel within the upland habitat overlay district, the development on the parcel shall have an approved upland habitat plan as required pursuant to this article.

Whenever the city annexes any parcel or property, the annexed area shall undergo review for a determination of existence of significant or essential upland wildlife habitat pursuant to the procedure set forth in section 17.5-114(b)(4).

(c) Other regulations. Nothing in this article is intended to alter or pre-empt any other applicable regulations of the federal, state or county as they may apply within or outside the upland habitat overlay district. Specifically, all federal or state regulations regarding protection of wildlife or plant species essential habitat shall apply throughout the jurisdictional limits of the City of Tampa notwithstanding this article. Further, the regulations set forth in this article shall be in addition to the regulations set forth in Chapter 13 of the City Code regarding landscaping, tree removal, site clearing and wetland protections and setbacks.

(Ord. No. 99-141, § 1, 6-24-99)

Secs. 17.5-96--17.5-100. Reserved.

DIVISION 2. PLANS; DOCUMENTS; REQUIREMENTS; ETC.

Sec. 17.5-101. Upland habitat plan approval; requirements; exemptions.

(a) Plan approval required. Except as specifically exempted herein, no person shall commence any site clearing, land alteration, or receive a development approval or building permit for any development on a parcel within the upland habitat overlay district meeting the criteria outlined in sections 17.5-114 through 17.5-118 until an upland habitat plan is approved by the coordinator in accordance with this article to ensure such activity does not harm any significant or essential wildlife habitat on that parcel. In instances where phased development is to occur pursuant to the terms of the city zoning code or ordinance, a person shall apply to the coordinator for approval of an upland habitat plan which addresses all phases of said development, prior to permitting and development of the initial phase of the development.

Further, it shall be unlawful for any person, firm or corporation, either individually or through an agent 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 hereto.

(b) Effect of plan approval. Issuance of upland habitat plan approval by the coordinator, 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) Exemptions. The following are exempt from this section:

(1) A parcel within the upland habitat overlay district that has had a field verification conducted by the coordinator that has determined that no significant or essential upland wildlife habitat, as outlined in sections 17.5-114, 17.5-115; or listed wildlife or plant species as listed in Appendix C, occurs on the parcel.

(2) The terms of sections 17.5-113 through 17.5-118 pertaining to uplands providing significant and essential wildlife habitat, shall not apply to the following activities:

a. Land alteration activities for development improvements pursuant to a subdivision preliminary plat and subdivision construction plans which were approved prior to the effective date of this ordinance;

b. Land alteration activities for development improvements pursuant to a final, unexpired DRI (development of regional impact) or FQD (Florida Quality Development) development order which was approved prior to the adoption of this ordinance. Further, any amendment to such DRI or FQD development order which does not constitute a "substantial deviation" pursuant to Florida Statutes Chapter 380.06, shall be exempt. Provided further, any amendment to a DRI or FQD development order which constitutes a "substantial deviation" pursuant to Florida Statutes Chapter 380.06, but which does not directly relate to, nor substantially increase any impact to, significant or essential wildlife habitat as defined herein, shall also be exempt;

c. Land alteration activities for development improvements pursuant to a final, unexpired commercial site plan which was approved prior to the adoption of this ordinance, or pursuant to a PD or PD-A rezoning (that is not "expired" under the conditions outlined under section 27-323(6)b) which was approved prior to the adoption of this ordinance;

d. Land alteration activities for development improvements to a single-family residential lot in single lot ownership. This exemption shall not apply to a developer or owner of several lots in a subdivision or development which may be developed in a singular manner.

(d) Exemption determination. The legal determination as to whether a development, project or parcel is exempt under the provisions above, shall be determined by the city attorney, upon consultation with the coordinator.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-102. Plan approval application; review; approval and denial; prerequisites; conditions.

(a) Submission. Before any person legally entitled to apply for and receive plan approval under the provisions hereof, they shall submit to the city a proposed upland habitat site plan for the entire parcel.

(b) Application. Any person legally entitled to apply for and receive plan approval under the provisions of this article shall make such application in writing to the coordinator on forms provided for that purpose. Every applicant for plan approval shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith. The coordinator shall require plans, specifications or drawings and such other information as necessary and pertinent prior to the granting of plan approval. The application for a upland habitat plan approval shall identify the plans, specifications or drawings necessary and pertinent for plan review. If necessary, the coordinator may develop an upland habitat development review manual which may further identify and explain the information required to review the application.

(c) Review of application. An upland habitat plan shall be applied for and reviewed subject to the following:

(1) For any parcel containing a wetland or natural body of water, no plan approval shall be issued until the application has also been reviewed and wetland jurisdictional lines established by the EPC or other appropriate governmental agency. The applicant shall transmit a copy of an application to the EPC for review when the coordinator receives a complete application and determines, with the aid of the United States Department of Agriculture, Soil Conservation Services's "Soil Survey of Hillsborough County, Florida", an on-site inspection, or an aerial photograph, that a wetland or natural body of water potentially exists on the site or immediately adjacent to the site for which plan approval is requested.

(2) To review an application, the coordinator and, when appropriate, the EPC, shall conduct on-site inspections.

(d) Decision on the application. Within thirty (30) days of receipt of a complete application, the coordinator shall approve, approve with conditions, or deny or disapprove an upland habitat plan based upon whether the proposal is in compliance with the upland habitat regulations set forth herein and is necessary for one (1) or more of the following reasons:

- (1) To construct improvements consistent with approved development or permitted physical use of a lot or parcel pursuant to the requirements of the City Code.
- (2) For access to a lot or parcel or construction equipment access to and immediately around proposed structures or other improvements.
- (3) For essential grade changes or essential surface water drainage or utility installations.
- (4) To comply with other ordinances, regulations, or codes of the City of Tampa.
- (5) For the welfare of the general public for reasons other than those set forth above.

In the event the upland habitat plan is denied or disapproved, the coordinator, upon making such determination, shall notify the applicant in writing stating specifically the reasons for denial.

(e) Prerequisites to plan approval.

(1) A site clearing permit, if required, shall not be issued until the coordinator has issued a upland habitat plan approval, if required.

(f) Conditions of the plan approval.

(1) A copy of the upland habitat plan approval shall be posted on-site during land alteration activities.

(2) Upon issuance of upland habitat plan approval, protective barriers shall be erected around all vegetation to be preserved. Protective barriers shall remain in place until land alteration and construction activities are completed, or until commencement of grade finishing and sodding.

(3) An approved management plan agreement pursuant to section 17.5-117(b).

(4) The coordinator may conduct periodic inspections of the site to determine compliance with the upland habitat plan approval.

(5) No certificate of occupancy, if required, shall be issued until the coordinator has determined upon final inspection that the land alteration activity was undertaken according to the approved upland habitat plan, if required.

(6) Any plant material planted in accordance with these regulations shall be replaced by the property owner according to the approved management plan agreement.

(7) A upland habitat plan approval issued in conjunction with a site clearing permit or grade and fill permit for a subdivision project shall limit land alteration activities to

approved fill areas, road rights-of-way, and drainage and utility easements and rights-of-way, unless otherwise authorized. A separate site clearing permit may be required to undertake land alteration activity on individual subdivision lots containing trees or other vegetation.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-103. Plan approval duration and extension.

An upland habitat plan approval shall be effective for a period of two (2) years after issuance unless otherwise specified on the approved plan. Each upland habitat plan approval shall provide that the requested development shall commence within two (2) years from the date of issuance of the plan approval, or shall have the same duration as the approved rezoning or approved DRI of which it is a part. If development is delayed and the plan is not part of a rezoning or DRI approval, a two (2) year plan approval extension may be granted by the coordinator within thirty (30) days after receipt of a written request indicating why an extension is necessary and upon the coordinator's review of the project's work schedule and progress. The plan approval shall expire and become null and void at the end of this period if the development authorized has not commenced. Any plan approval not acted upon within the prescribed time limit shall become void and future work shall require a new application.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-104. Plan approval transferability.

A plan approval shall be transferable from one (1) person or entity to another subject to any restrictions provided for in Chapter 5 of the City Code.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-105. Inspections.

Any activities regulated by this article shall be subject to inspection by the city. The coordinator may require documents, drawings or certificates necessary to effect compliance with this article.

(Ord. No. 99-141, § 1, 6-24-99)

Cross references: Inspections generally, § 1-27.

Sec. 17.5-106. Plan approval fees--City council to establish.

The city council shall have the authority to set fees by resolution. Fees may be charged for the following:

(1) Plan approval application;

(2) Reinspection;

(Ord. No. 99-141, § 1, 6-24-99)

Secs. 17.5-107--17.5-112. Reserved.

DIVISION 3. SPECIFIC TECHNICAL REQUIREMENTS.

Sec. 17.5-113. Environmentally sensitive areas--Uplands providing significant and essential wildlife habitat; general provisions.

(a) Sections 17.5-114 through 17.5-118 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) On-site 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 coordinator 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 off-site preservation.

(c) Natural upland areas within a proposed development project shall count toward meeting the requirements for on-site preservation only when such natural areas meet the applicable on-site preservation criteria.

(d) When, as a result of applicability of multiple federal, state or local regulations, multiple off-site acreage preservation requirements are applicable to the same on-site habitat, only the requirement which prescribes the largest amount of preservation acreage for that habitat shall apply.

(e) Nothing in these sections shall limit the ability of the city staff to address other resource issues in the upland portions of a proposed development project for which standards are contained in this Code.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-114. Environmentally sensitive areas--Upland significant wildlife habitat.

(a) In the City of Tampa, most of the original upland wildlife habitat has been replaced with urban or suburban 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; annexed areas.

(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 City of Tampa's Significant Wildlife Habitat Map as significant wildlife habitat. The City's Significant Wildlife Habitat Map, dated May 18, 1999, on file in the office of the city clerk, is herein adopted by reference. The city's significant wildlife habitat map was derived from the Hillsborough County Significant Wildlife Map as it applies to the City's Upland Habitat Overlay District area.

(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) Whenever property is annexed into the city and the coordinator determines that the area meets the significant wildlife habitat definition and size/width criteria as described in the significant wildlife habitat guidelines of Appendix A, or if the coordinator determines that a previously unmapped area meets the significant wildlife habitat definition and size/width criteria as described in the significant wildlife habitat guidelines of the Appendix A, the coordinator shall notify affected property owners of the public hearing at which the city council shall consider amending the upland habitat protection map to designate the area as land which potentially constitutes significant wildlife habitat. If a property owner desires to have their property added to the City of Tampa's Upland Habitat Protection Map either because it: (a) meets the significant wildlife habitat guidelines minimum size criteria described in Appendix A, or (b) is contiguous to mapped significant

wildlife habitat, they may request a site inspection by submitting a request to the coordinator.

(5) Determination of the existence, type, and extent of any upland significant wildlife habitat shall be made by the coordinator by conducting an evaluation upon request, or upon submission of an application for development, such as a DRI, rezoning, or 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 on-site. 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 on-site. However, in no case shall the preservation requirement exceed fifty (50) percent of the upland area on-site. 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 Appendix A, shall be used as a guide for identifying wildlife corridors. The factors to consider when determining minimum corridor widths described in the Appendix A, 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 reasonably feasible and prudent design alternative, and the proposed alternative 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 on-site preservation provisions of section 17.5-117.

(7) On-site preservation shall be recommended 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 Appendix B. The coordinator may consider financial impacts in determining whether sufficient management capabilities exist, however, that consideration alone is not sufficient to support a negative determination of feasibility of on-site management capabilities or to justify off-site preservation. The coordinator's determination of the feasibility of on-site 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 on-site cannot be sufficiently managed, protection shall consist of preservation off-site of habitat acreage equal to the amount of habitat that would have been preserved on-site according to (1) above, and shall meet the off-site preservation provisions of section 17.5-118.

(9) Notwithstanding a recommendation by the coordinator for on-site preservation, the developer may elect to mitigate for his/her impact to significant wildlife habitat through off-site preservation. In such instance, there will be a net loss of manageable significant wildlife habitat or a viable population of plant species, therefore in addition to all other off-site preservation provisions set forth in section 17.5-118, the following criteria shall be met in lieu of section 17.5-118(a)(1):

a. The off-site preservation-site shall be degraded lands (i.e., non-significant wildlife habitat), or lands which are the type land, but not the minimum size, set forth in Appendix A; and

b. The off-site preservation-site shall be of the same general soil type (xeric or mesic) of the significant wildlife habitat existing on-site.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-115. 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 the City of Tampa. 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 on-site, 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 on-site, based on the listed species guidelines in Appendix C. However, it is not the intent of this provision to preclude all reasonable use of a lot or parcel consistent with this Code.

(2) The coordinator shall presume that a listed animal species' essential habitat occurs on-site whenever a listed animal species has been previously documented on-site; or, upon evaluation of the property, the Coordinator determines that the land by itself, or in combination with off-site lands, meets the minimum habitat needs for a viable population of a listed animal species, as specified in the listed species guidelines in the Appendix C; or, upon conducting an on-site inspection of the property, the coordinator 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 on-site preservation of the habitat, based on the listed animal species' habitat needs as specified in the listed species guidelines in the Appendix C, and shall meet the on-site preservation provisions of section 17.5-117.

(4) On-site preservation shall be recommended only when the site is supporting by itself, or in combination with off-site 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 coordinator's determination of a viable population of a listed animal species and the feasibility of on-site 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 on-site cannot be sufficiently managed, protection shall consist of preservation off-site and shall meet the off-site preservation provisions of section 17.5-118.

(6) Notwithstanding a recommendation by the coordinator for on-site preservation, the developer may elect to mitigate for his/her impact to essential wildlife habitat through off-site preservation. In such instance, there will be a net loss of manageable essential wildlife habitat, therefore in addition to all other off-site preservation provisions set forth in section 17.5-118, the following criteria shall be met in lieu of section 17.5-118(a)(1):

a. The off-site preservation-site shall be degraded lands (i.e., non-significant wildlife habitat), or lands which are the type land, but not the minimum size, set forth in Appendix A; and

b. The off-site preservation-site shall be of the same general soil type (xeric or mesic) of the essential wildlife habitat existing on-site.

(7) The listed animal species covered by these provisions are listed in the listed species guidelines in Appendix C.

(c) Listed plant species.

(1) When a listed plant species' essential habitat occurs on-site, the developer shall protect the habitat of the listed plant species by locating and designing proposed improvements to maintain the plants on-site, based on the listed species guidelines set forth in the Appendix C. 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 coordinator shall presume that a listed plant species' essential habitat occurs on-site whenever a listed plant species has been previously documented on-site; or, upon conducting an on-site inspection, the coordinator 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 on-site preservation of the plants, based on the listed plant species' habitat needs set forth in the listed species guidelines in the Appendix C, and shall meet the on-site preservation provisions of section 17.5-117.

(4) On-site preservation shall be recommended only when sufficient management capabilities exist to maintain the plants on-site. The coordinator's determination of the feasibility of on-site 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 on-site cannot be sufficiently managed, protection shall consist of preservation off-site, and shall meet the off-site preservation provisions of section 17.5-118.

(6) Notwithstanding a recommendation by the coordinator for on-site preservation, the developer may elect to mitigate for his/her impact to listed plant species' essential habitat through off-site preservation. In such instance, there will be a net loss of manageable listed plant species' essential habitat, therefore in addition to all other off-site preservation provisions set forth in section 17.5-118, the following criteria shall be met in lieu of section 17.5-118(a)(1):

a. The off-site preservation-site shall be degraded lands (i.e., non-significant wildlife habitat), or lands which are the type land, but not the minimum size, set forth in Appendix A; and

b. The off-site preservation-site shall be of the same general soil type (xeric or mesic) of the listed plant species' essential habitat existing on-site.

(7) The listed plant species covered by these provisions are listed in the listed species guidelines in Appendix C.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-116. Natural preserves.

(a) Land owned by the public or by a non-profit land 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 commented upon by the agency managing the publicly owned lands and required as a condition of granting an upland habitat plan approval. 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 coordinator and required as a condition of granting the upland habitat plan approval. In its review of the project compatibility plan, the coordinator 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.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-117. On-site preservation.

(a) Site selection. Where alternative on-site preservation-sites exist within a development, the site or sites selected for on-site 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 set forth in Appendix A and listed species guidelines set forth in Appendix C, 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 off-site;
 - (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) On-site 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 coordinator to assist in the preparation of a management plan agreement for the area to be preserved. The management plan agreement 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 in Appendix B or listed species guidelines in Appendix C. The management plan agreement shall designate management responsibility, including a proposed funding mechanism if management of the area to be preserved will be the responsibility of a homeowner's association. Habitat management shall be the landowner's responsibility, or the responsibility of the City of Tampa or of any other land conservation agency or organization that accepts the responsibility in lieu of the landowner. The management plan agreement shall be reviewed and approved prior to the issuance of an upland habitat plan approval.

(3) A landowner may request the City of Tampa, or a non-profit land conservation agency or organization, 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, Florida Statutes.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-118. Off-site preservation.

The off-site preservation requirement may be fulfilled either directly by preserving land off-site or indirectly by contributing to an off-site conservation fund, as provided below.

(1) In-kind preservation.

a. Off-site significant wildlife habitat preservation-sites, pursuant to the requirements of section 17.5-114, shall be predominantly (i) the same type of habitat or, (ii) land which can be restored to the same type of habitat as the natural plant community being adversely impacted on-site by development.

b. Off-site 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 off-site preservation-site shall be acre-for-acre compensation for the essential wildlife habitat being adversely impacted on-site by development.

c. If jurisdictional wetlands are acquired incidentally to uplands acquisition, such wetland acreage shall be counted towards the off-site preservation acreage requirements provided such wetlands do not constitute more than fifteen (15) percent of the total off-site preservation acreage requirement.

(2) Site selection.

a. The location of off-site preservation-sites shall be within the City of Tampa or Hillsborough County.

b. Off-site preservation-sites shall meet all appropriate acquisition, preservation, restoration, habitat suitability, manageability, size, and other provisions of this section (17.5-118). Such lands shall be (1) sites composed of additions of land to existing publicly managed areas held for conservation purposes, such as city, state or county parks or preserves, or (2) 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, watershed or river basin in proximity to the habitat being adversely impacted on-site by development. The alternative site shall be subject to review and approval pursuant to the criteria in this section (17.5-118).

c. In determining whether the selection of a particular off-site preservation-site is appropriate, the coordinator 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.

d. When the off-site 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.

(3) Preservation methods.

a. Off-site preservation-sites shall be for the purpose of restoring (if applicable), preserving, and maintaining natural areas in perpetuity.

b. The developer shall meet the off-site preservation acreage requirement through one (1) of the following methods:

1. Land acquisition. The developer shall acquire, at its sole cost and expense, fee simple title or a conservation easement (in accordance with Fla. Stat. § 704.06) and shall transfer or convey such title or easement of an appropriate off-site preservation-site to a governmental agency or non-profit land conservation agency or organization.

(i) If a conservation easement is acquired and transferred, a management plan shall be developed in cooperation with the landowner which stipulates the limitation on the use of the land and identifies the habitat management activities, restoration activities and assignments of responsibility. All easements shall reference the management plan.

(ii) If fee simple title is acquired and transferred, a management plan shall developed which stipulates the management and restoration activities and assignments of responsibilities.

2. Contribution to an off-site conservation fund. The developer may contribute, on a per acre basis, to an off-site conservation fund based upon the off-site conservation fund'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 off-site conservation fund, divided by applicable acreage, multiplied by the carrying costs.

(4) Timing. The upland habitat plan approval shall specify the acreage and location of the off-site preservation-site, the cost and timing of any monetary contributions or off-site acquisitions, the ownership and party responsible for management of the off-site preservation-site, the location of any on-site 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 off-site preservation is being provided, shall not be disturbed or adversely impacted prior to meeting the off-site preservation requirements.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-119. Inventory.

The coordinator shall forward documentation to the planning and management department identifying all lands preserved under this article for purposes of maintaining an inventory and record of lands meeting the requirements prescribed those sections in regard to policies in the comprehensive plan.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-120. Penalty restoration fund.

(a) Purpose. The purpose of the penalty restoration fund is to provide an alternative to the on-site restoration of trees or other vegetation which have been removed from a site. Funds received through the penalty restoration fund shall be administered by the coordinator and shall be utilized for acquiring, planting, protecting, and maintaining upland habitat and other vegetation for public purposes within the City of Tampa. Monies contributed may be used to establish matching fund programs. The coordinator shall coordinate the collection and disbursement of funds in accordance with the provisions of this section.

(b) Source of funds. Penalty restoration fund monies may consist of the following:

(1) All monies collected pursuant to the penalties outlined in section 17.5-131(d) for violations of sections of this article.

(2) All monies accruing as interest to the penalty restoration fund, unless otherwise restricted by specific terms and conditions identified by a particular grant, gift, or other instrument of contribution.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-121. Technical standards may be established.

The coordinator may establish technical standards setting forth:

(1) Administrative guidelines governing the enforcement of this article;

(2) Requirements not specifically addressed in this article but necessary to effectuate the purposes of this article; and

(3) Any other information needed for the uniform and orderly administration of this article.

Such standards are to be published in a technical manual entitled Upland Habitat Development Review Manual, which manual shall be on file in the office of the city clerk at least seven (7) days prior to adoption thereof and shall be made available to the public for inspection and for duplication at cost.

(Ord. No. 99-141, § 1, 6-24-99)

Cross references: Requirements not covered by city code may be required by the official, § 1-17.

Sec. 17.5-122. Appendices adopted.

Appendix A, B, and C referred to herein, on file in the office of the city clerk, are herein adopted by references, and, therefore, have the force and effect of law.

(Ord. No. 99-141, § 1, 6-24-99)

Secs. 17.5-123--17.5-128. Reserved.

DIVISION 4. ENFORCEMENT; SANCTIONS; APPEALS

Sec. 17.5-129. Failure to obtain plan approval.

Any person who shall commence any work without first obtaining plan approval therefor shall, if subsequently permitted to obtain plan approval, pay triple the plan approval fee prescribed for the work. The payment of a triple fee shall not preclude nor be deemed a substitute for prosecution for commencing work without first obtaining plan approval.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-130. Stop work and emergency orders.

(a) Generally. Upon written notice from the coordinator, work on any development that is being done contrary to the provisions of this article or in a dangerous or unsafe manner shall immediately cease. Such notice shall be hand delivered to the owner of the property, his agent or the person doing the work or posted at the job site and shall state the conditions under which work may resume.

(b) Emergencies. Where an emergency exist, oral notice by the coordinator to the owner of the property, his agent or the person doing the work shall be sufficient to require the work to immediately cease.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-131. Violations; enforcement authority and remedies.

(a) Authority. The coordinator shall have the power and duty to enforce all provisions of this article. Any action taken by the coordinator pursuant to this article to enforce any section hereof shall be in addition to other penalties and remedies provided elsewhere by ordinance or law.

(b) General penalties. Any person who violates the provisions of this article shall be subject to penalties as specified in Chapter [section] 1-6 of the City Code.

(c) Civil remedies. In addition to the criminal penalties provided for violation of this article, the city shall have the right to institute any appropriate action or proceeding against the violator including, but not limited to, prosecution before the code enforcement board or a civil action for damages equal to the total value of mitigating the habitat damaged or purchasing similar habitat, relocation of wildlife species, or any other damage or cost which would be incurred in order to bring the parcel into compliance with this article. In addition, the city or any aggrieved person shall have the right to apply to the circuit court to enjoin or restrain any person from violating the provisions of this article.

(d) Fines. In addition to the penalties provided above, any person who intentionally and willfully violates the provisions of this article and, as a result causes substantial and irreparable damage to upland habitat protected hereunder, shall be subject to a monetary penalty of ten thousand dollars (\$10,000.00).

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-132. Appeal methods.

(a) Administrative appeals. Appeals to review any order, requirement, decision or determination made by the coordinator shall be to city council. Any aggrieved person or entity may appeal a decision of the coordinator by filing an appeal petition to the city council within seven (7) working days of the date of the oral or written decision of the coordinator. Such petition shall be filed with the city clerk. The appellant shall pay a fee, as established by city council, at the time of filing. The appellant must provide city council with a record of any documentation relied upon by the coordinator in making his determination.

The appellant must send notice of the appeal hearing, no later than fifteen (15) days prior to the hearing, in accordance with the notice requirements set forth in section 17.5-75(b).

No permits shall be issued for construction or development pursuant to a decision of the coordinator regarding plan approval until the seven (7) working days time limit for appeal to city council has lapsed, and if an appeal petition has been filed, until the city council has rendered a final decision thereon.

City council, in reviewing the decision of the coordinator, may either affirm, modify, or overrule the coordinator's decision, or may remand the matter to the coordinator for further proceedings.

(b) Appeals to court. An appeal from an order of the city council shall be made by filing a petition for writ of certiorari to the circuit court within thirty (30) days of the date of the oral decision of the city council.

(Ord. No. 99-141, § 1, 6-24-99)

Sec. 17.5-133. Variances.

Variances to the provisions and requirements of this article may only be approved by the city council in accordance with the same criteria and procedures set forth in section 17.5-74, 17.5-75, 17.5-76 of the City Code regarding variance applications to the variance review board.

(Ord. No. 99-141, § 1, 6-24-99)

Secs. 17.5-134--17.5-140. Reserved.