

ARTICLE IV. - CLEARING, FILLING AND SOIL CONSERVATION REQUIREMENTS

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[Sec. 3-5-91. - Applicability.](#)

[Sec. 3-5-92. - Definitions.](#)

[Sec. 3-5-93. - Procedure.](#)

[Sec. 3-5-94. - Standards.](#)

[Sec. 3-5-95. - Erosion control at development sites.](#)

[Sec. 3-5-96. - Critical area stabilization.](#)

[Sec. 3-5-97. - Conservation of native topsoils.](#)

[Sec. 3-5-98. - Enforcement, violations and penalties.](#)

[Secs. 3-5-99—3-5-110. - Reserved.](#)

Sec. 3-5-91. - Applicability.

Except where specifically exempt herein, the requirements of this article shall apply to all land clearing and land filling activities conducted within the unincorporated area of Charlotte County. It shall be unlawful and a violation of this article to engage in any land clearing or filling activities, except those undertaken as part of a bona fide agricultural operation, prior to the issuance of either a Charlotte County building permit, excavation permit, or tree removal authorization.

All land clearing and land filling activities authorized under this article must comply with the standards provided in sections 3-5-95 through 3-5-97.

The issuance of a Charlotte County building permit, excavation permit, or tree removal authorization does not exempt applicants from having to fulfill the permitting requirements of other jurisdictional agencies including, but not limited to, the Florida Department of Environmental Protection, Florida Game and Fresh Water Fish Commission, or the applicable water management district.

(Ord. No. 98-054, § 1, 7-21-98)

Sec. 3-5-92. - Definitions.

Unless specifically defined below, words or phrases used in this article shall be ascribed a meaning which they have in common usage and which gives this article its most reasonable application.

Comprehensive plan shall mean the County Comprehensive Plan adopted pursuant to the requirements of F.S. Ch. 163.

Critical area stabilization shall mean the stabilization of exposed soil in highly erodible or critically eroding areas.

Denuded shall mean stripped of vegetation and other natural cover, thereby increasing susceptibility to soil erosion.

Development or development activity shall mean:

- (1) Clearing, scraping or removing the vegetation from a site; or
- (2) Adding, removing, exposing, excavation, leveling, grading, borrowing, dumping, piling, dredging, or otherwise significantly disturbing the soils of a site.

Development site shall mean any site upon which development activities take place.

Erosion shall mean the weathering away of soil by wind and water.

Perennial shall mean the persisting from year to year and not prone to seasonal die back.

Sediment barrier shall mean a physical barrier through which water readily passes and that functions to trap or prevent the passage of sediments suspended within the transmitted water.

Topsoil shall mean those soils classified as the upper part of the soil which are the most favorable material for plant growth, ordinarily rich in organic matter, and are used to top dress roads, lawns, and land affected by mining or development.

Watercourse shall mean any natural or artificial stream, creek, channel, ditch, canal, waterway, gully, ravine, or wash in which water flows.

Wetland shall mean any area that is inundated by surface or groundwater with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative species that require a saturated or seasonally saturated soil condition for growth and reproduction, e.g., swamps, sloughs, marshes, wet prairies, bayheads, grass beds, mud flats and ponds.

(Ord. No. 98-054, § 1, 7-21-98)

ARTICLE IV. - CLEARING, FILLING AND SOIL CONSERVATION REQUIREMENTS

Sec. 3-5-93. - Procedure.

At the time of application for a building permit, the applicant shall provide:

- (1) A survey of the subject property, signed and sealed by a professional surveyor registered in the State of Florida, which meets the minimum technical standards as provided by chapter 61G17-6, Florida Administrative Code.
- (2) A plot plan, signed and sealed by a professional engineer or surveyor registered in the State of Florida, which illustrates grading sufficient to demonstrate that the property, when developed, will drain to an approved drainage facility without interfering with the proper drainage of surrounding properties. Drainage may be towards a canal, drainage green belt, or other established drainage facility. Lots may not drain to a rear lot easement which is not maintained by the county unless approved by the county stormwater utility director and land development supervisor or their designees.

(Ord. No. 98-054, § 1, 7-21-98)

Sec. 3-5-94. - Standards.

- (a) Slopes may not exceed four to one (4:1) (horizontal to vertical) except that slopes permitted by the county health department shall be allowed for septic system installation in the area of the septic system and in accordance with all applicable regulations.
- (b) Where an adjoining property has a structure at a lower elevation than the proposed structure and the existing slope on the adjoining property is sloping downward from the proposed structure, a swale must be provided entirely on the subject property in order to ensure that drainage occurs across the subject property without interference to drainage of the adjoining parcel.
- (c) During construction, the existing front and side swales must not be filled or obstructed in any way, and the adjacent property's drainage must be maintained. Except at the high point for drainage, the installation of a temporary pipe shall be required in the county right-of-way to maintain drainage during clearing and fill operation and throughout construction. Temporary pipe must remain in place until permanent pipe (if any) is placed.

(Ord. No. 98-054, § 1, 7-21-98)

Sec. 3-5-95. - Erosion control at development sites.

- (a) *Water quality.* All drainage leaving cleared development sites shall be filtered by sediment barriers. It shall be the responsibility of the developer to maintain the effectiveness of filtration by regular clearing of captured sediments or by refurbishment, as necessary. Captured sediments are to be disposed of on upland portions of the development site.
- (b) *Prevention of wetland degradation.* Staked and entrenched hay bales, or other temporary sediment barriers shall be installed at the toe of all exposed slopes which meet or exceed four horizontal to one vertical (4:1) and are within twenty-five (25) feet of wetlands, waters of the state, or any surface water feature not bounded entirely by the limits of the development site. These shall be placed and maintained such that drainage will not overflow or bypass the barrier and shall remain in place until the slope is leveled or permanently stabilized.
- (c) *Dust control.* All development of one (1) acre or greater which will result in exposure of denuded soil during the months of November through March shall employ dust control procedures consistent with the guidelines of the Natural Resource Conservation Service or the FDEP Florida Development Manual.

(Ord. No. 98-054, § 1, 7-21-98)

Sec. 3-5-96. - Critical area stabilization.

- (a) *Intent.* This section is intended to ensure that highly erodible or critically eroding areas including, but not limited to, dams, dikes, levees, cuts, ditches and other artificial watercourses, fills, spoil piles and denuded gullied sites, are stabilized to conserve topsoil and prevent sedimentation of surface waters.
- (b) *Temporary soil stabilization.* All graded or cleared areas greater than one (1) acre which will be subject to erosion by wind or water for a period of twelve (12) months or greater prior to the

ARTICLE IV. - CLEARING, FILLING AND SOIL CONSERVATION REQUIREMENTS

establishment of finished grade, agricultural crops, or permanent perennial vegetative cover shall be stabilized.

- (c) *Fill slopes.* All slopes of four horizontal to one vertical (4:1) or greater shall be sodded or otherwise stabilized in accordance with guidelines of the natural resource conservation service. In the event that the slope is a temporary result of earthmoving activities associated with development of a site and said slope will be modified within thirty (30) days, stabilization shall not be required. This shall not preclude compliance with the remaining provisions of this article.
- (d) *Swales and other drainage systems.* All swales and other manmade, nonstructural drainage conveyances excavated after the effective date of these regulations shall be stabilized with perennial grass cover; application may be through sodding, hydroseeding, or other methods which achieve stabilization and are approved by the stormwater utility director or his designee. In the event that the bottom of the conveyance is below seasonal high groundwater levels, grass cover shall be required to extend down to the seasonal high groundwater line only. In no instance shall the preceding be construed to supersede the requirements of the Charlotte County Stormwater Management Ordinance.
- (e) *Exemptions.* Unpaved roads and other surfaces designed for vehicular circulation shall be exempt from the requirements of section 3-5-96(b).
(Ord. No. 98-054, § 1, 7-21-98)

Sec. 3-5-97. - Conservation of native topsoils.

- (a) *Intent.* This section is intended to preserve native topsoils, where present, and to the greatest extent practicable.
- (b) *Retention on-site.* To the extent practicable, the topsoil which occurs on a site prior to development shall be retained or stockpiled throughout the development of the site such that it will not be buried during the placement of fill. Following fill placement and prior to landscaping, stockpiled topsoils shall be redistributed over the exposed, filled portions of the site. In no event shall the preceding be interpreted to require grade change within the dripline of trees to be preserved, nor the stockpiling of topsoils from any portion of the site which will not be filled.
- (c) *Exemptions.* Any development site which is identified by the natural resource conservation service as devoid of native topsoils shall be exempt from the requirements of section 3-5-97(b).
(Ord. No. 98-054, § 1, 7-21-98)

Sec. 3-5-98. - Enforcement, violations and penalties.

- (a) Enforcement of this article will be by the community development department as designated by the county administrator.
- (b) After the issuance of the authorizations referenced in section 3-5-91 hereinabove, it shall be unlawful for the permittee to do any clearing [or] filling except in accordance with the terms and conditions of such authorizations. At the time of the final building inspection, the inspector shall determine if the site is graded in substantial conformance with the currently approved grading plan on file with the building department. Conformance with the approved plan shall be a prerequisite to the issuance of the certificate of occupancy. Any changes to the approved grading plan must receive prior approval of the building official, which approval shall be made administratively.
- (c) Violation of the provisions and requirements of these regulations shall be a civil violation within the jurisdiction of the code enforcement board with a maximum penalty of two hundred fifty dollars (\$250.00) per day.
- (d) Alternatively, a violation of these regulations may be prosecuted pursuant to F.S. section 125.69. Each incident of violation will be considered a separate offense.
(Ord. No. 98-054, § 1, 7-21-98)

Secs. 3-5-99—3-5-110. - Reserved.