

1 PART III - LAND DEVELOPMENT AND GROWTH MANAGEMENT

2 Chapter 3-5 - PLANNING AND DEVELOPMENT

3 **ARTICLE IV VEGETATIVE REMOVAL, CLEARING, FILLING AND SOIL CONSERVATION REQUIREMENTS**

4  
5 **Section 3-5-91 Applicability.**

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

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

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

19  
20 **Section 3-5-92 Application Requirement.**

21 A permit shall only be applied for by the property owner or a person granted permission by the  
22 property owner.

23  
24 **Section 3-5-~~92~~93 Definitions.**

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

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

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

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

33 ~~Development or development activity shall mean:~~

34 ~~(1) Clearing, scraping or removing the vegetation from a site; or~~

35 ~~(2) Adding, removing, exposing, excavation, leveling, grading, digging, borrowing, dumping,~~  
36 ~~piling, dredging, or otherwise significantly disturbing the soils of a site.~~

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

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

1 Lot means a designated parcel, tract, or area of land established by plat, subdivision, or as  
2 otherwise permitted by law, and recorded in the public records of Charlotte County, Florida, to be  
3 separately owned, used, developed, or built upon. For the purpose of this Code, a lot is created on  
4 such date that a deed for the lot is lawfully first recorded in the public records of the County or the  
5 date that a plat has been lawfully recorded in the public records of the County and the lot is a part of  
6 the plat.

7 Mulching means the reduction of biomass without disturbing the soils or any native trees  
8 measuring 4 caliper inches or greater. Usually accomplished using machinery equipped with  
9 rotational drum style cutters to grind vegetation into mulch without the need for additional machinery.  
10 All root systems are left in place and there is minimal soil disturbance.

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

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

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

17 Vegetative removal means the cutting, mowing, or mulching of shrubs, native trees of less than 4  
18 caliper inches, and any non-native tree species of any size from land.

19 Waterbody shall mean any natural or man-made pond, lake, reservoir, or other area which  
20 ordinarily contains water and which has a discernible shoreline.

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

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

27  
28 **Section 3-5-94 Prohibited Activity.**

29 It shall be unlawful and a violation of this Article to engage in any vegetative removal prior to the  
30 issuance of a Vegetative Removal Permit. The issuance of a Vegetative Removal Permit does not  
31 exempt an applicant from having to fulfill the permitting requirements of other jurisdictional agencies  
32 including, but not limited to, the Florida Department of Environmental Protection, Florida Fish and  
33 Wildlife Conservation Commission, or the applicable water management district. The following  
34 activities are exempt from this prohibition:

35 A. A bona fide agriculture use occurring on land zoned for agriculture or a bona fide agriculture  
36 use legally occurring on land not zoned for agriculture.

37 B. Routine landscape maintenance on a developed lot.

38 C. Mulching as part of an approved management activity within a preserve or resource

1 conservation area.

2 D. Lawful development activities within existing utility, drainage, and road rights-of-way or  
3 easements, for the purposes for which they were reserved.

4  
5 **~~Section 3-5-93 Procedure.~~**

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

7 ~~(1) A survey of the subject property, signed and sealed by a professional surveyor registered in the~~  
8 ~~State of Florida, which meets the minimum technical standards as provided by chapter 61G17-6,~~  
9 ~~Florida Administrative Code.—~~

10 ~~(2) A plot plan, signed and sealed by a professional engineer or surveyor registered in the State of~~  
11 ~~Florida, which illustrates grading sufficient to demonstrate that the property, when developed, will~~  
12 ~~drain to an approved drainage facility without interfering with the proper drainage of surrounding~~  
13 ~~properties. Drainage may be towards a canal, drainage green belt, or other established drainage~~  
14 ~~facility. Lots may not drain to a rear lot easement which is not maintained by the county unless~~  
15 ~~approved by the county stormwater utility director and land development supervisor or their~~  
16 ~~designees.—~~

17  
18 **Section 3-5-9495 Standards.**

19 The following standards shall apply to vegetative removal activities:

20 A. Earthmoving shall not occur during vegetative removal. Stumps shall not be removed by  
21 excavation but shall be ground on-site.

22 B. Vegetative removal shall not have an adverse impact on on-site listed species or habitat.

23 C. Vegetation shall be only be removed by use of hand tools, chains saws, brush cutters,  
24 mowers or mobile mulching machines.

25 D. Vegetation may be chipped on-site.

26 A. Vegetative removal shall not have an adverse impact on the quality or quantity of  
27 groundwater or surface water of surrounding or downstream properties.

28 B. Vegetation from the clearing site shall not be accidentally or intentionally disposed of in any  
29 wetland, waterbody, or watercourse.

30 C. Vegetative removal shall not impact off-site drainage.

31 D. There shall be a 50 foot setback from any vegetative removal activity and any on-site or  
32 off-site wetlands or waterbodies. No activity other than the removal of exotic species by  
33 use of hand tools shall take place within this setback. Sediment barriers, fencing, and  
34 signage, as necessary depending on the activity, shall be placed along the outer edge of the  
35 50 foot setback.

36 E. Burning or incineration associated with vegetative removal will require permits in  
37 accordance with Charlotte County law and applicable Federal and State law.

38 F. The use of machinery to conduct vegetative removal shall only be allowed between the

1 hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and between the hours of 7:00  
2 a.m. and 12:00 p.m. on Saturday, unless otherwise approved.

3 G. All vegetative clearing of one acre or greater that may result in exposure of soil during the  
4 months of November through March shall employ dust control procedures consistent with  
5 the guidelines of the Natural Resource Conservation Service or the FDEP Florida  
6 Development Manual.

7 ~~(a) Slopes may not exceed four to one (4:1) (horizontal to vertical) except that slopes permitted by the~~  
8 ~~county health department shall be allowed for septic system installation in the area of the septic~~  
9 ~~system and in accordance with all applicable regulations.—~~

10 ~~(b) Where an adjoining property has a structure at a lower elevation than the proposed structure and~~  
11 ~~the existing slope on the adjoining property is sloping downward from the proposed structure, a~~  
12 ~~swale must be provided entirely on the subject property in order to ensure that drainage occurs~~  
13 ~~across the subject property without interference to drainage of the adjoining parcel.—~~

14 ~~(c) During construction, the existing front and side swales must not be filled or obstructed in any way,~~  
15 ~~and the adjacent property's drainage must be maintained. Except at the high point for drainage,~~  
16 ~~the installation of a temporary pipe shall be required in the county right-of-way to maintain~~  
17 ~~drainage during clearing and fill operation and throughout construction. Temporary pipe must~~  
18 ~~remain in place until permanent pipe (if any) is placed.—~~

19 ~~**Section 3-5-95 Erosion control at development sites.—**~~

20 ~~(a) *Water quality.* All drainage leaving cleared development sites shall be filtered by sediment~~  
21 ~~barriers. It shall be the responsibility of the developer to maintain the effectiveness of filtration by~~  
22 ~~regular clearing of captured sediments or by refurbishment, as necessary. Captured sediments are to~~  
23 ~~be disposed of on upland portions of the development site.—~~

24 ~~(b) *Prevention of wetland degradation.* Staked and entrenched hay bales, or other temporary~~  
25 ~~sediment barriers shall be installed at the toe of all exposed slopes which meet or exceed four~~  
26 ~~horizontal to one vertical (4:1) and are within twenty five (25) feet of wetlands, waters of the state, or~~  
27 ~~any surface water feature not bounded entirely by the limits of the development site. These shall be~~  
28 ~~placed and maintained such that drainage will not overflow or bypass the barrier and shall remain in~~  
29 ~~place until the slope is leveled or permanently stabilized.—~~

30 ~~(c) *Dust control.* All development of one (1) acre or greater which will result in exposure of denuded~~  
31 ~~soil during the months of November through March shall employ dust control procedures consistent~~  
32 ~~with the guidelines of the Natural Resource Conservation Service or the FDEP Florida Development~~  
33 ~~Manual.—~~

34 ~~**Section 3-5-96 Critical area stabilization.—**~~

1 ~~(a) Intent. This section is intended to ensure that highly erodible or critically eroding areas including,~~  
2 ~~but not limited to, dams, dikes, levees, cuts, ditches and other artificial watercourses, fills, spoil~~  
3 ~~piles and denuded gullied sites, are stabilized to conserve topsoil and prevent sedimentation of~~  
4 ~~surface waters.—~~

5 ~~(b) Temporary soil stabilization. All graded or cleared areas greater than one (1) acre which will be~~  
6 ~~subject to erosion by wind or water for a period of twelve (12) months or greater prior to the~~  
7 ~~establishment of finished grade, agricultural crops, or permanent perennial vegetative cover shall~~  
8 ~~be stabilized.—~~

9 ~~(c) Fill slopes. All slopes of four horizontal to one vertical (4:1) or greater shall be sodded or otherwise~~  
10 ~~stabilized in accordance with guidelines of the natural resource conservation service. In the event~~  
11 ~~that the slope is a temporary result of earthmoving activities associated with development of a site~~  
12 ~~and said slope will be modified within thirty (30) days, stabilization shall not be required. This shall~~  
13 ~~not preclude compliance with the remaining provisions of this article.—~~

14 ~~(d) Swales and other drainage systems. All swales and other manmade, nonstructural drainage~~  
15 ~~conveyances excavated after the effective date of these regulations shall be stabilized with~~  
16 ~~perennial grass cover; application may be through sodding, hydroseeding, or other methods which~~  
17 ~~achieve stabilization and are approved by the stormwater utility director or his designee. In the~~  
18 ~~event that the bottom of the conveyance is below seasonal high groundwater levels, grass cover~~  
19 ~~shall be required to extend down to the seasonal high groundwater line only. In no instance shall~~  
20 ~~the preceding be construed to supersede the requirements of the Charlotte County Stormwater~~  
21 ~~Management Ordinance.—~~

22 ~~(e) Exemptions. Unpaved roads and other surfaces designed for vehicular circulation shall be exempt~~  
23 ~~from the requirements of section 3-5-96(b).—~~

24 **~~Section 3-5-97 Conservation of native topsoils.—~~**

25 ~~(a) Intent. This section is intended to preserve native topsoils, where present, and to the greatest~~  
26 ~~extent practicable.—~~

27 ~~(b) Retention on site. To the extent practicable, the topsoil which occurs on a site prior to~~  
28 ~~development shall be retained or stockpiled throughout the development of the site such that it~~  
29 ~~will not be buried during the placement of fill. Following fill placement and prior to landscaping,~~  
30 ~~stockpiled topsoils shall be redistributed over the exposed, filled portions of the site. In no event~~  
31 ~~shall the preceding be interpreted to require grade change within the dripline of trees to be~~  
32 ~~preserved, nor the stockpiling of topsoils from any portion of the site which will not be filled.—~~

33 ~~(c) Exemptions. Any development site which is identified by the natural resource conservation service~~  
34 ~~as devoid of native topsoils shall be exempt from the requirements of section 3-5-97(b).—~~

35  
36 **Section 3-5-98-96 Enforcement, violations and penalties.**

37 ~~(a)A.~~ Enforcement of this ~~article~~ Article will be by the community development department as  
38 designated by the county administrator.

1 ~~(b)B.~~ After the issuance of the authorizations referenced in ~~section 3-5-91 hereinabove~~this Article,  
2 it shall be unlawful for the permittee ~~conduct to do~~ any vegetative clearing~~clearing [or] filling~~  
3 except in accordance with the terms and conditions of such authorizations. ~~At the time o the~~  
4 ~~final building inspection, the inspector shall determine if the site is graded in substantial~~  
5 ~~conformance with the currently approved grading plan on file with the building department.~~  
6 ~~Conformance with the approved plan shall be a prerequisite to the issuance of the certificate of~~  
7 ~~occupancy. Any changes to the approved grading plan must receive prior approval of the~~  
8 ~~building official, which approval shall be made administratively.~~

9 ~~(c)C.~~ Violation of the provisions and requirements of these regulations shall be a civil violation  
10 within the jurisdiction of the code enforcement board with a maximum penalty of two hundred  
11 fifty dollars (\$250.00) per day.

12 ~~(d)D.~~ Alternatively, a violation of these regulations may be prosecuted pursuant to F.S. section  
13 125.69. Each incident of violation will be considered a separate offense.

14  
15 **Sections 3-5-~~9997~~—3-5-110. Reserved.**