

## **Wetlands**

### **Objective 5**

Preserve, protect, restore, and replace wetlands to achieve no net loss of functional wetlands in Brevard County after September, 1990. The County shall ensure the protection of wetlands and wetland functional values by prioritizing protective activities with avoidance of impacts as the first priority, minimization of impacts as the second priority, and mitigation for impacts as the third priority.

### **Policy 5.1**

Brevard County shall utilize the same methodology, soil types, hydrological requirements and vegetation types as the FDEP and the SJRWMD in delineating wetlands.

### **Policy 5.2**

Brevard County shall adopt regulations which promote no net loss of functional wetlands. At a minimum, the following criteria shall be included in the land development regulations:

#### **Criteria:**

- A. The basis for no net loss shall be established as of the effective date of the required ordinance.
- B. Wetlands shall be considered functional unless the applicant demonstrates that the water regime has been permanently altered, either artificially or naturally, in a manner to preclude the area from maintaining surface water or hydroperiodicity necessary to sustain wetland functions.
- C. If an activity is undertaken which degrades or destroys a functional wetland, the person performing such an activity shall be responsible for repairing and maintaining the wetland. If it is not feasible or desirable for the responsible person to perform the repair and maintenance of the wetland, then the responsible person shall mitigate for the wetland loss. Mitigation can include, but not be limited to: wetland restoration, wetland replacement, wetland enhancement, monetary compensation or wetland preservation.
- D. Wetland activity conducted by a public agency may not be utilized for wetland mitigation credit by private persons unless approved by Brevard County.
- E. The following land use and density restrictions are established as a maximum density or most intense land use that may be considered only if the other criteria established in Conservation Element Policy 5.2 are met:

1. Residential land uses shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For development activities on property greater than five (5) acres, density may be transferred to an upland portion of the site if consistent with all county land development regulations and compatible with adjacent uses. Residential property which includes wetland areas shall be subdivided in such a way that buildable areas are included in each lot. Subdivided lots shall contain sufficient uplands for the intended use and for any buffering necessary to maintain the function of the wetland(s), and shall be compatible with adjacent uses.

~~2. Commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial and industrial after February 23, 1996, and in surrounding buffers for such wetlands, with specifications based on the Buffer Zones for Water, Wetlands, and Wildlife in the East Central Florida Region, (1990, Brown, M.T., Schaefer, and K. Brandt, published by the Center for Wetlands, University of Florida), except for certain commercial development at I-95 interchanges that are consistent with the following criteria:~~

- ~~a.—— There will be no less than 100,000 square feet of commercial building within a project;~~
- ~~b.—— There is current overcapacity on the adjacent roadways, and it is projected that roadway capacity within four (4) miles of the intersection will be no more than 80% of the congestion ratio (the ratio of projected volume to maximum allowable volume) after 500,000 square feet of commercial space has been developed within one-half mile of the intersection of the off-ramp with the connecting roadway;~~
- ~~c.—— Wetland mitigation shall equal or exceed 125% of the mitigation which is otherwise required;~~
- ~~d.—— The development is located within one-half mile of the intersection of the off-ramp with the connecting roadway;~~
- ~~e.—— There will be no more than two curb cuts on each quadrangle of the interchange within one-half mile of the connection of the off-ramp and the connecting roadway; and~~
- ~~f.—— A maximum of forty (40) acres shall be allotted in proximity to the interchange, counting both sides.~~

~~3. Commercial and industrial land development activities may be permitted in wetlands contained in properties designated on the Future Land Use Map as commercial and industrial prior to February 23, 1996, only if all of the following criteria are met:~~

- ~~a.—— The property is substantially surrounded by land(s) developed as commercial or industrial as of February 23, 1996, and has sufficient infrastructure in place to serve the commercial or industrial use.~~
- ~~b.—— The proposed land development activity will not result in increased flooding problems on adjacent properties.~~
- ~~c.—— The wetland is not classified by the Florida Land Use, Cover and Forms Classification System (1985) as a Stream and Lake Swamp (FLUCS~~

~~615), Cypress (FLUCS 621), Atlantic White Cedar (FLUCS 623), Wetland Forested Mixed (FLUCS 630), or Wet Prairies (FLUCS 643).~~

~~For wetlands specified in 5.2.F.3(c), the wetland functionality shall be maintained and protected by a 15 foot natural, native vegetative buffer for isolated wetlands and by a 50 foot natural, native vegetative buffer for other wetlands. The Forested Wetlands Location Map depicts the location of the following wetland types (FLUCS 615, 621, 623, 630, and 643), which also possess commercial or industrial zoning classifications and Future Land Use Map designations as of February 23, 1996, and is incorporated herein by this reference.~~

2 Brevard County shall establish criteria for allowable wetland impacts for commercial and industrial development in and adjacent to wetlands. Minimum criteria shall be established for the following:

a. Commercial and industrial development activities within wetlands contained in properties that are part of a strip commercial area as defined in the Future Land Use Element of the Comprehensive Plan or as further defined in ordinance.

b. Commercial and industrial development activities within wetlands that would be considered infill development as defined in FS Chapter 163.2514(2), as amended.

c. Commercial and industrial development activities within wetlands that are isolated and less than 0.50 acres in size if appropriate mitigation is completed per Chapter 62-345 Uniform Mitigation Assessment Method (UMAM), FAC, as may be amended. In cases where the UMAM does not apply, mitigation shall occur at a ratio of two to one for each acre or portion thereof.

d. Commercial and industrial development activities within wetlands possessing a minimal ecological value in Water Environment or Community Structure as defined by Chapter 62-345 UMAM, FAC, as may be amended.

43 In the event that the denial of commercial or industrial development activities in wetlands results in an inordinate burden under the Bert Harris Property Rights Act or a taking under state or federal law, an affected property owner may appeal such denial to the Board of County Commissioners in the manner provided in Section 62-507(b)(2), Code of Ordinances of Brevard County, Florida.

54 The utilization of fill should be kept to a minimum and related primarily to structural building area requirements, on-site disposal system requirements, the 100 year flood elevation requirement for first floor elevations, and to one primary

access to the on site structures.

65 Dumping of solid or liquid wastes shall be prohibited.

76 Applying or storing pesticides and herbicides should be prohibited unless such application is required for protection of the public health.

- F. An exemption for agricultural pursuits, utilizing best management practices, which do not result in permanent degradation or destruction of the wetland shall be included within the land development regulation.

### **Policy 5.3**

Wetland regulations adopted by Brevard County should avoid duplication of wetland regulation unless regulated activities will result in the destruction and/or degradation of functional wetlands. Where the wetland degradation or destruction has been permitted by FDEP or SJRWMD based on FDEP and SJRWMD professional staff application of criteria and evaluation the County shall apply the land use and density requirements of Policy 5.2 and the avoidance, minimization of impacts, and mitigation priorities established by Objective 5. Any permitted wetland degradation or destruction shall provide for mitigation as designated in the Conservation Element.

### **Policy 5.4**

Wetlands artificially created for wastewater treatment or disposal or for wetland stock nurseries shall not be subject to these regulations and shall not be used to fulfill the requirements of this objective (Objective 5).

### **Policy 5.5**

Natural, isolated wetlands should be incorporated into water management systems where practical and appropriate, as an alternative to destruction of wetlands. Whenever wetlands are utilized within water management systems, quality of the water discharged to the wetlands, hydroperiods and stage elevations should be designed to maintain or enhance the wetland.