

**AN ORDINANCE AMENDING ORDINANCE NO. 854 OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF MILTON BY AMENDING SECTION IV-1.2 TO INCLUDE DEFINITIONS OF WETLANDS AND TYPES OF BUFFERS, BY CREATING SECTION IV-1.4 RELATING TO BUFFERS, PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH, AND PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE CITY OF MILTON, FLORIDA:

SECTION 1 Section IV-1.2 definitions is amended to read as follows:

Unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this section its most effective application.

*Adjacent to an Environmentally Sensitive Land* – Any location immediately abutting the boundary of an environmentally sensitive land, whether the location is on or off the development site.

*Adverse Effects* – Any modification, alteration, or effect on waters, associated wetlands or shorelands, including their quality, quantity, hydrology, surface area, species composition or usefulness for human or natural uses which are or may be potentially harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability or which unreasonably interferes with the reasonable use of property, including outdoor recreation. The term includes secondary and cumulative impacts, as well as direct impacts.

*Associated Wetland* – Any wetland that is adjacent or contiguous to water, or which has a hydrologic connection to waters.

*Clearing* – The removal of trees and brush from the land, not including the ordinary mowing of grass.

*Environmentally Sensitive Lands* – These land areas include any wetland areas within the city of Milton under the jurisdiction of the Florida Department of Environmental Regulation and/or the U.S. Army Corps of Engineers; and all floodprone land areas classified by the Federal Emergency Management Agency as A or V Zones on the Flood Insurance Rate Maps.

*Types of Buffers* – The buffer may be existing undisturbed natural vegetation or where the natural barrier was altered or no longer exists because of past lawful activities, a planted vegetated buffer supplemented with fencing or other manmade barriers, so long as the function of the buffer and intent of this policy are fulfilled. Fencing can be used to supplement the buffer requirements but may not be used as a replacement to the buffering requirements.

*Water or Waters* – Includes, but is not limited to, water on or beneath the surface of the ground, including natural or artificial watercourses, streams, rivers, lakes, ponds or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground.

*Watercourse* – Any natural or artificial channel, ditch, canal, stream, river, creek, waterway or wetland through which water flows in a definite direction, either continuously or intermittently, and which has definite channel, bed, banks or other discernible boundary.

*Water's Edge and Wetland's Edge* – The water's or wetland's edge shall be determined by whichever of the following indices yields the most landward extent of waters or wetlands:

- A. the boundary established by the annual mean high water (MHW) mark, or
- B. the landward boundary of wetland vegetation as established by the Florida Department of Environmental Regulation (DER) or U.S. Army Corps of Engineers (COE) jurisdictional determination.

*Wetlands* – Those areas that fall under the jurisdiction of the U. S. Army Corps of Engineers or the Florida Determent of Environmental Projection.

preserved native vegetation, including canopy, understory and ground cover whenever possible. If there is no native vegetation on the site, a planted vegetated buffer (as indicated above) shall be required as part of the site development.

Variances to the buffer requirements shall only be granted when strict application of the requirements limits all reasonable use of the property as allowed by the Future Land Use Map.

- C. Where sufficient uplands exist to locate the proposed development in the upland portion of the site, the City may allow the transfer of development at the lesser of the future land use densities established on the Future Land Use Map, or the density established for the assigned zoning district in the Land Development Code, from the wetland to the upland portion of the site. The transfer of density may occur provided all other plan provisions are satisfied regarding, but not limited to, upland and floodplain resource protection, compatibility of adjacent land use, storm-water management and setbacks. Transfer of development densities shall also satisfy the minimum lot size of the zoning district in which the lot is located.
- D. Any new lots created hereafter will have enough buildable upland area to accommodate the level of development appropriate for the designated land use, so that wetlands impacts can be avoided and appropriate buffers accommodated. For lots existing prior to adoption of this plan, where sufficient uplands do not exist to avoid a taking, development in the wetlands shall be restricted to allow the appropriate residential density use at the density of one dwelling unit per five acres. In the event a parcel is less than five acres, a single-family dwelling will be allowed on each parcel, which existed prior to the adoption of this plan. Single family dwelling development on existing parcels which are permitted pursuant to this policy that cannot meet the buffer requirements, may be reduced proportionately with the parcel dimensions. For lots existing prior to adoption of this plan where sufficient depth of the uplands do not exist, to avoid a taking, development shall be restricted to a single-family dwelling subject to a reduced buffer. A lot lacking sufficient depth means a lot that is 100 feet or less. Such lots shall be subject to a minimum buffer of 10 percent of the depth of the lot. The buffer may be supplemented with a fence to further protect the wetlands. Access to the river, stream or wetland shall be limited to

SECTION 2: Section IV-1.4 is amended to read as follows:

- A. The City shall protect and conserve the natural functions of wetlands and water bodies through wetland and shoreline protection buffers. The buffer width of wetland and shoreline protection buffers may vary depending upon such factors as slope, elevation and vegetational transition. The buffers shall be as follows:
1. For existing cleared industrial and commercial projects along rivers, streams and regulated wetlands, a minimum fifteen (15) foot buffer is to be provided.
  2. For new industrial and commercial projects on undeveloped land located along rivers, streams and regulated wetlands, a minimum thirty-foot (30') natural vegetative buffer shall be provided. Thinning of the underbrush without disturbing the land will be allowed. The definition of underbrush and method of removal of the underbrush shall be as defined by FDEP and USACOE.
  3. For existing cleared residential property the same requirements as (1) above shall apply with a minimum fifteen (15) foot buffer and the area between the rear building setback line and the buffer shall be stabilized and/or grassed.
  4. For residential development on undeveloped land, the same requirements as (2) above except the buffer provided shall be fifteen (15) feet and the area between the rear building setback line and the buffer shall be stabilized and/or grassed.
- B. Allowable development within wetlands and associated wetland buffers includes piers, docks, elevated walkways, public picnic pavilions, public parks, gazebos, or structures approved and permitted by the FDEP and/or USACOE and an attendant fifteen feet wide cleared path through the buffer for purposes of providing access to such structures. Encroachments are also permitted for roads, utilities and recreational crossings, consistent with permits issued by regulatory agencies. The number of such encroachments shall be minimized by co-location of utilities, roads and other crossings. The wetlands protection buffer shall begin at the Florida Department of Environmental Protection Agency or the Army Corps of Engineering jurisdictional line whichever is more landward of the two. In the absence of wetlands along rivers and streams, a buffer extending landward of the mean or ordinary high-water line, as applicable, shall be required as specified above. The buffer zones shall consist of

a 15-foot swath, which shall be maintained in grass or other pervious material (not to be paved or any other impervious surface).

SECTION 3 SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 4 REPEALER

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5 EFFECTIVE DATE

This Ordinance shall be effective upon passage by the City Council.

PASSED by the City Council of the City of Milton, Florida on the 13th day of  
December, 20 05.

CITY OF MILTON, FLORIDA

BY: \_\_\_\_\_  
MAYOR

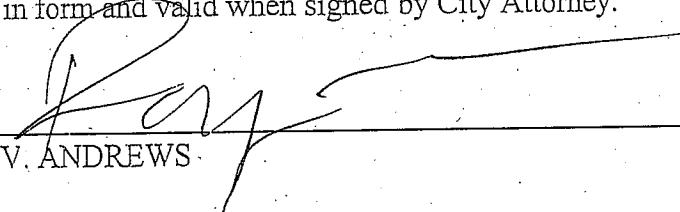
ATTEST:

CITY CLERK: \_\_\_\_\_

First Reading: November 8, 2005

Second Reading: December 13, 2005

Legal in form and valid when signed by City Attorney.

  
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ROY V. ANDREWS