Article 5. Environmentally Sensitive Areas

This Article establishes standards and regulations governing environmental constraints. These regulations are intended to encourage preservation of lands designated as preservation areas, in a natural or near natural state. The City recognizes that there exists in the City certain lands and areas of unique environmental and ecological significance and importance that are important for their biological productivity and economic, aesthetic and safety values. These areas include, but are not limited to, salt marshes, deciduous forest, pine flatwoods, pine woods, mangrove swamps, hydric and upland hammocks, freshwater marshes, tidal marshes, beaches, natural drainage areas and floodplains or lands designated as preservation areas. This section safeguards these areas from inappropriate development so that they may benefit all the residents of the City and at the same time provide the means whereby property owners of lands declared to be environmentally or ecologically sensitive or important, by means of the preservation classification, shall not have to bear the full burden of preserving and conserving those lands.

Division 1. Preservation Areas

8.1 Establishment of districts

Preservation areas are designated by suffix to the abutting zoning designation (e.g., CP (Preservation), IP (Preservation), etc.) The zoning district requirements apply to the entirety of the property. Additional restrictions shall apply within the preservation area as established by this subsection and applicable local, State and federal agencies.

Table 8-1 Relative Significance of Environmental Factors
8.2 **Criteria for designation**

To be designated as a preservation area, a site shall have a combined score of four or more points and exhibit at least one of the vegetation types listed in Table 8-1. Preservation areas are identified in the Comprehensive Plan and may be added or removed by following the procedures for a land use plan change.

### Table 8-1: Vegetation

<table>
<thead>
<tr>
<th>Vegetation</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mangroves</td>
<td>2.0</td>
</tr>
<tr>
<td>Fresh marsh</td>
<td>2.0</td>
</tr>
<tr>
<td>Salt marsh</td>
<td>2.0</td>
</tr>
<tr>
<td>Hydric hammock</td>
<td>2.0</td>
</tr>
<tr>
<td>Mesic hammock</td>
<td>2.0</td>
</tr>
<tr>
<td>Deciduous forest</td>
<td>2.0</td>
</tr>
<tr>
<td>Urban mesic hammock</td>
<td>1.5</td>
</tr>
<tr>
<td>Pine flatwoods</td>
<td>1.0</td>
</tr>
<tr>
<td>Pine woods</td>
<td>1.0</td>
</tr>
</tbody>
</table>

8.3 **Maintenance of preservation area**

Property owners shall maintain preservation areas in a viable natural condition. Any act or failure to act that results in the degradation of a preservation area is a violation of this section and shall require restorative action or mitigation. The term degradation includes, but is not limited to, filling, dredging, clearing, trimming, cutting, sodding, siltation, encroachment of exotic or nuisance plants, manmade change in surrounding conditions or other causes that are not natural. The maintenance of the preservation area includes maintaining the removal of exotic or nuisance plants.

8.4 **Site plan processing**

Any development, alteration, improvement, enhancement, clearing, restorative action or mitigation within a preservation area, shall meet the following application and review process:

(a) The property owner shall provide a description of the property in writing and request the desired action within the preservation area to the POD.

(b) The owner shall submit a letter to the POD requesting and authorizing staff to field inspect the property. The owner shall arrange to have surveyors accompany staff during the field inspection to establish the survey boundaries of the preservation area.

(c) Staff shall field check the condition of the site(s) and stake the boundaries of the designated preservation area. Adjustments to the boundaries of the preservation area may be made by staff during the field check where natural conditions have altered the characteristics of the site in a manner that has eliminated the required factors for preservation designation. Regardless of site conditions, the preservation
area designation shall remain in effect until a land use plan amendment is adopted which removes the preservation area designation.

(d) The owner shall complete the survey of the boundaries of the designated preservation area and any adjusted boundary. The survey shall include a measurement of the area in square feet. The survey will be signed and certified by a registered surveyor.

(e) The owner shall submit a site plan which meets the requirements in this Chapter (see Sections Article 4, Division 5). The POD may require additional information.

(f) Site plans for permitted uses and structures on properties that contain a preservation area shall be reviewed by the POD unless: (1) a specific provision of this Chapter requires review by the DRC; or (2) the applicant requests variances to this section in which case the application shall be reviewed by the DRC.

8.5 Development in a preservation area.

(a) Uses of property in preservation areas not contiguous to developable property are limited to activities that do not require alteration of the property from its natural state.

(b) Uses of preservation areas contiguous to developable non-preservation property are subject to the conditions of this subsection.

(c) Development, alteration or improvement in a preservation area shall not exceed an FAR of .05 and an ISR of 0.10 of the area of each preservation area and shall leave the remaining area in its natural state.

(d) Development is prohibited in that portion of the preservation area which lies below the mean high water contour and which is an area in which development is prohibited by State or federal regulations.

(e) Drainage designs shall maintain stormwater quality and hydroperiods optimum for the health of the preservation area. The applicant shall provide information sufficient to demonstrate that predevelopment drainage characteristics, including quality and quantity of flow received by the preservation area, will not be altered without required mitigation. There is no alteration which would increase potential flood damage from storm-driven waves.

(f) In order to ensure ongoing maintenance, preservation areas shall be platted with or legally committed as part of the abutting land so that no unbuildable detached lots or parcels remain. Preservation areas shall be designated "preservation area" on all plans.

(g) Conditions of site plan approval may include that all Schinus terebinthifolius (Brazilian pepper), Meleleuca quinquenervia (cajeput or punk tree) and Casuarina spp. (Australian pines) or other exotic or nuisance plant species shall be removed from the site and from the preservation area. This area shall be replanted with the native vegetation prior to issuance of a building permit. Methods for vegetation management...
removal and replanting in, or adjacent to preservation areas shall be approved by the POD.

(h) Land grading activities, structures or other development shall be setback from the established preservation area boundary in order to protect the preservation area. The need for and size of setbacks shall be based upon factors including the surrounding land use, topography, preservation area vegetation type and hydrology. The required setback shall be eligible for computation of green space on the site.

(i) No alteration, development, restorative action, clearing, disturbance, mitigation or enhancement (i.e.: trimming, planting, etc.) of vegetation in a preservation area is allowed without the approval of the POD after determining that there is no adverse impact on the preservation area. Approval is subject to the following requirements:

(1) An application for alteration, development, improvement, restorative action, clearing, disturbing, mitigating or enhancing a preservation area shall be submitted to the POD on the appropriate forms and with the required fee and shall demonstrate compliance with the provisions of this section and all other City ordinances. An application to remove exotic or nuisance plant species from a preservation area are not required to pay a fee. Removal of exotic or nuisance plant species and plans for replanting shall use those methods which have the least impact on the remainder of the preservation area.

(2) Any planting in a preservation area shall use native vegetation common to the specific category of vegetation within the preservation area.

(3) Protective wooden barricades that encompass no less than the area of the dripline of trees in the preservation area may be required to protect the preservation area from damage.

(j) Any alteration, development or restorative action within a preservation area with the documented presence of a listed species shall be evaluated for its effect upon the listed species. Mitigation or enhancement of listed species habitat is required for alteration or development within a preservation area which is documented by a recognized source such as the Audubon Society, the U.S. Fish and Wildlife Service, the Florida Game and Fresh Water Fish Commission, or the National Marine Fisheries Service, to support the nesting, roosting, feeding or other habitat of a listed species. For the purpose of this section listed species are defined as those species which are identified by the U.S. Fish and Wildlife Service or the Florida Game and Fresh Water Fish Commission, or both agencies, as being endangered, threatened or a species of special concern.

(k) Structures existing in preservation areas prior to August 25, 1977, shall not be considered nonconforming as to structure, and if removed or destroyed for any reason may be rebuilt to the original dimensions.
8.6 Transfer of development rights.

8.6.1 Density credits.
(a) Residential density and intensity credits may be transferred from a preservation area to abutting land in the same ownership or to allowed receiver districts as provided for in this section, subject to all other City ordinances.

(b) When density or intensity credits from a preservation area are transferred off-site, the preservation area may be used to meet open green space requirements of the abutting development provided that the development is in the same ownership or control and is an integral part of the development.

(c) The density or intensity credit transferable from a preservation area shall not be calculated from that portion of the preservation area in the rights-of-way or of that area used to meet minimum lot area requirements. No density or intensity credit shall be transferred from or to any property where development is prohibited by State or federal regulations, or where that property is below the mean high water contour (including submerged land).

(d) The density or intensity of any parcel of land to which density or intensity is transferred (receiving parcel) shall not exceed the maximum density or intensity permitted by the zoning district of the receiving parcel.

(e) Where the maximum allowed density or intensity credits are transferred from a parcel, no additional density or intensity credits shall be transferred from that parcel.

8.6.2 On-site transfer of density credit
Transfer of density or intensity credits to abutting land shall be limited to one unit per acre or up to the square footage available at 0.05 FAR.

8.6.3 Off-site transfer of density credits.
(a) Generally. Preservation areas that are preserved in their natural state and not developed, altered or improved, shall be eligible to transfer density or intensity credits for dwelling units or FAR as indicated in this section. Such credit may be transferred only to zoning districts that permit office, commercial or industrial uses, and only upon receipt of approval as described in this section.

(b) Development rights certificates.

(1) An owner of a preservation area may transfer up to one unit per acre of density or up to the square footage available at 0.05 FAR of intensity from the preservation area.

(2) An owner of a preservation area is entitled to density or intensity credits evidenced by development rights certificates in the number established by this section. Once development rights certificates are issued, the preservation areas from which the credits transfer shall not be developed.
(3) An applicant who desires to obtain development rights certificates for density or intensity credits shall submit an application to the POD with a certified survey, mean high water survey (if applicable), and site plan showing the geographical boundaries and location of the preservation area from which development is to be transferred. The site plan and survey shall be drawn to suitable and accurate engineering scale not smaller than one inch equals 50 feet.

(4) An application to remove credits from a preservation area shall be reviewed by the DRC. The DRC may remove credits and issue development rights certificates with the condition that the applicant shall guarantee the preservation of the preservation area through one of the methods established in subsection (c), below.

(c) A guarantee provided pursuant to subsection (b)(4), above, shall be by one of the following methods:

(1) Conveying fee simple title to the City, with the approval of the City.

(2) Execution and recordation of appropriate deed restrictions and covenants running with the land to provide for the preservation of the land as natural open space.

(3) Execution and recordation of an appropriate easement or easements or a 99-year lease, with the approval of the City, granting the City the exclusive use of the land for purposes consistent with preservation as natural open space.

(4) Convey an interest (i.e.: fee simple, lease, easement, etc.) to a County, State, or federal government or other entity committed to the preservation of the land, which entity must be acceptable to the City.

(d) Documents evidencing all title transfers, covenants, deed restrictions, easements and leases, etc. must be in a form enforceable under State law, as determined by the City Attorney.

### 8.6.4 Transfers of development rights certificates.

(a) An owner of development rights certificates, who is properly registered as an owner with the City and who wishes to use the credits evidenced by the certificates to transfer density or intensity to a parcel of land, shall apply for such transfer and use of development rights on the parcel in accordance with the requirements of the parcel's zoning district and other City ordinances. The owner of the parcel must have the approval of the DRC before density or intensity credits may be used.

(b) A current register of available development rights certificates that have been authorized shall be maintained by the POD.

(c) Development rights certificates may be sold, transferred or conveyed from one person to another. Certificates indicating the number of units, or amount of FAR owned by each owner, will be issued by the City. Before new certificates may be issued, old certificates shall be returned to the POD.
8.7 Mitigation

(a) The purpose of mitigation is to maintain the value of environmental systems by avoiding, minimizing or compensating for any adverse change in conditions or loss of resources in preservation areas. For the purposes of this section the term "mitigation" means an action or series of actions that will offset the adverse impacts on preservation areas. Recognizing that larger environmental preservation areas provide higher quality habitat value, preference and priority will be given to mitigation projects which create larger preservation areas or increase the size of existing preservation areas.

(b) The property owner shall mitigate the impacts of any activity that results in a loss of any portion of a preservation area or its environmental significance through the re-establishment, creation or enhancement of an appropriate ecological community. Environmental significance is based upon the factors used to designate preservation areas, including, but not limited to, vegetation, flood hazard, soils and drainage characteristics and their relative functions. Values include, but are not limited to, conditions in the preservation area which benefit water quality and supply, flood protection, flora and fauna diversity, habitat viability and any other values affecting the public interest.

(c) Mitigation includes, but is not limited to, the following methods in the order in which they should be used:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment including removing exotic and nuisance vegetation, replanting or restoring natural drainage patterns;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

5. Compensating for the impact by replacing or providing substitute resources or environments.

(d) Methods of mitigation must be approved by the POD. The applicant shall demonstrate compliance with this section and all other City ordinances. An application for mitigation with the required fee shall be submitted to the POD.

(e) The following mitigation standards shall apply for any work that results in unavoidable adverse impacts to preservation areas:

1. In-kind replacement is required for mangroves, salt marsh and seagrasses;

2. Replacement lands and/or resources shall be a minimum of a two to one ratio in the area affected. However, where mitigation will create larger preservation areas or increase the size of existing preservation areas, the ratio is 1.5:1;
(3) A minimum of 85 percent survival of new plantings through at least one growing season shall be required;

(4) The proposal shall be consistent with the Comprehensive Plan and applicable State and regional policies and regulations;

(5) Wherever possible, replacement or restoration shall be located within the affected drainage basin and connected with existing native habitat. However, preference and priority will be given to mitigation projects which create larger preservation areas or increase the size of existing preservation areas;

(6) The posting of financial guarantees and monitoring may be required to guarantee the long-term success of the mitigation plan;

(7) The plans shall be coordinated with federal, State and regional agencies and are subject to the approval of their permit requirements.

(f) Mitigation areas shall be designated on the plat as preservation areas and subject to all applicable regulations.

8.8 Miscellaneous

The existence of a preservation area shall be evidence of hardship for any variances to yard requirements which may be granted by the EDC.

Division 2. Mangroves

8.20 Mangroves

The City of St. Petersburg finds that mangroves, including Red Mangroves, Black Mangroves and White Mangroves, are an essential component of the estuarine food chain, supporting the commercial and recreational fisheries of Tampa Bay. The State of Florida currently prohibits the City from regulation in this area, however that prohibition could change in the future. Therefore, if at any time there is no preemptive state legislation regarding mangroves, then the trimming or cutting of mangroves is hereby prohibited. The administration is directed to propose an ordinance for the judicious management of the City’s coastal mangrove communities by regulating the alteration of any mangrove species at the earliest opportunity after such state preemption is removed.

Division 3. Waterways

8.30 Development on Waterways

Development on waterways shall comply with the following conditions:

(a) Prior to any excavation or fill to create waterways or canals in a proposed subdivision, a final plat in accordance with the provisions of this chapter shall be approved by the City Council.

(b) Final approval of such subdivisions shall ensure the applicant of City’s acceptance of the design of this waterfront subdivision and permit commencement of
the dredge and fill operation. However, the City shall not approve the final plat of such a subdivision for recording until such time as the excavation and fill has been completed to City standards.

(c) No building permit shall be issued by the City for such waterway lots until waterway bank stabilization has occurred and been approved by the Engineering Department.

(d) The standards regulating waterway development are as follows:

1. Minimum width and depth of waterways. All waterways created by dredge and fill shall have a minimum width of 100 feet measured from top of bank to top of bank, or from seawall to seawall. Where a finger projection of land is proposed that exceeds 1,400 feet in length, the minimum width of the waterway shall be 200 feet. The minimum depth of any canal at mean sea level shall be six feet at the center of the canal. Development of docks and related structures shall comply with article V of this chapter, as well as with all other applicable local, County, State and federal requirements.

2. Dedication of canal waterways. The City may accept the dedication of waterways except that portion within two feet of any seawall line. Abutting lot owners shall maintain such waterways, except where the waterways are an integral part of the drainage system. The responsibility for maintenance of all canal waterways shall be clearly set forth on the final plat. Dedication of such waterways may reserve the right to abutting owners to construct docks, boathouses or beaches to City specifications.

3. Methods of enhancing tidal flow. The applicant shall indicate on the paving and drainage plans his proposed methods to augment tidal action and prevent stagnation in canals.

**8.31 Waterway bank stabilization**

Seawalls designed in accordance with standard engineering principles acceptable to the Engineering Director are required on all excavated waterways and hydraulic fill development having access to tidewater. Where possible, the seawall shall be placed landward of the mean high tide line as to preserve natural slope, indigenous plants, and bottom vegetation. Where the Development Review Committee or the Engineering Director determines that seawalls are not necessary because the natural vegetation protects the shoreline, seawalls are not required. Along all shorelines the vegetative fringe shall be preserved.

**Division 4. Wetlands**

**8.40 Wetland protection**

Purpose: In addition to regulation of preservation areas as provided in this Article, these additional regulations are intended to protect the biological and aesthetic values of wetlands from impacts such as siltation, eutrophication, noise and artificial light intrusion and human and domestic animal intrusion.

(a) Wetlands protected by this article include manmade and natural areas that display the soil characteristics and support vegetation specific to saturation by surface
or ground water. Wetlands shall not include stormwater retention ponds. Wetlands shall include areas identified as jurisdictional by regional, State or federal wetland regulations.

(b) The upland limit of wetlands protected by this article shall be that determined by the regional, State or federal agency that identifies the wetland as jurisdictional. If two or more agencies independently establish upland limit lines, the largest area encompassed by the jurisdiction lines shall be the wetland line for purposes of this section.

(d) No wetland alteration is permitted except to restore indigenous species.

(e) If a wetland must be destroyed in such a manner that it may never return to the natural condition of size (e.g. when a bridge is built), a new wetland of similar potential productivity shall be created within the immediate area to mitigate the loss. Mitigation shall be at least a 2:1 ratio.

(f) Mitigation and restoration-sites shall be recorded as developed preservation or conservation easements within which no further development is permitted.

(g) An open space buffer is required between any wetland area and any new or redeveloped structure, parking area or other development. The required buffer shall be 15 feet in width. Variances may be granted if this width is not necessary to protect the wetland. This width may vary based upon, but not limited to, the following site-specific criteria: vegetation, presence of listed species, topography, adjacent development, and stormwater runoff. The buffers shall be shown on the site plan and shall be preserved during site development using appropriate sediment and vegetation protection barricades.