

# PRESERVATION AREAS, CONSERVATION AREAS, & NATIVE HABITATS

## FAQ

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### OVERVIEW

As per Sarasota County's Unified Development Code (UDC), Article 13.-Subdivision or Site Development Plan Regulation, Section 124-251.-Environmental Protection Provisions:

*Subsection 124-251(a)(2) states: "All activities involving filling, excavating, disturbing of vegetation (both trees and understory) and storing of materials shall be prohibited within preservation or conservation areas and buffer areas".*

The following are frequently asked questions relating to Preservation and Conservation Areas within site developments and subdivisions of Sarasota County. Please contact Environmental Protection Division (EPD) staff with additional questions and concerns.

### WHAT TYPES OF HABITATS ARE IN SARASOTA COUNTY?

Sarasota County has a wide array of habitats that may be located in your community, and near or within your backyard. In the coastal area of the County, habitats include beaches, dunes, coastal hammocks, mangrove swamps, salterns, tidal marshes, and coastal streams. In other parts of the County, habitats include freshwater wetlands, sloughs, wet and dry prairies, mesic and xeric hammocks, pine flatwoods and scrub. The most common habitat in Sarasota County is freshwater wetlands, which typically have an upland buffer surrounding the wetlands.

Native habitats are evaluated per the "Principles for Evaluating Development

Proposals in Native Habitats" found in the Environmental Chapter of the County's Comprehensive Plan (Section VI.A.2.e). These types of habitats are generally preserved during development and set aside as Preservation or Conservation Areas to be left in perpetuity as undeveloped areas in their natural state.

### WHO DETERMINS THAT THERE SHOULD BE PRESERVATION AND CONSERVATION AREAS, AND WHY?



The protection of native habitat areas and wildlife has long since been a community priority for Sarasota County. As a result, Sarasota County has adopted standards that protect specific types of native habitats to ensure that their functions and values are retained for future generations. These standards are applied during the land development review process and Preservation and Conservation Areas are established with conditions to ensure their protection.

Development proposals are subject to the County's Comprehensive Plan (e.g., "Principles for Evaluating Development Proposals in Native Habitats") and the Land Development Regulations (Unified Development Code). Representative native habitats that qualify for preservation or conservation in accordance with the principles are protected and integrated into new developments.

The native habitats claimed as preservation and conservation areas shall be subject to the requirements of the County's Comprehensive Plan, Unified Development Code, and specific Development Order approvals.

#### WHAT IS THE DIFFERENCE BETWEEN A COMMON PROPERTY, PRESERVATION AREA, CONSERVATION AREA, AND OPEN SPACE NATIVE HABITAT?

Per the Definitions provided in Article 17, Unified Development Code:

*Common Land or Area.* Any parcel of land owned near or used jointly for mutual benefit of more than one party (such as open space or recreational areas). A condominium association, homeowner's association, or similar organization shall be construed as being more than "one party" for the purposes of this definition.

*Open Space.* For the purpose of the UDC, open space shall be property under public or private ownership which is unoccupied or predominately unoccupied by buildings or other impervious surfaces and which is used for parks, recreation, agriculture, conservation, preservation of native habitat and other natural resources, surface water impoundment, historic, or scenic purposes.

*Native Habitats.* Those areas of Sarasota County described in the Habitat Inventory and Analysis section of the Comprehensive Plan, Environment Chapter, with the exception of Intensive Agricultural Areas and Developed Features.

*Preservation or Preserve.* To set aside in perpetuity, areas of native habitat that must not be disturbed, in accordance with the Principles for Evaluating Development Proposals in Native Habitats in the Environment Chapter of the Comprehensive Plan.

*Conservation or Conserve.* Areas of native habitats set aside in perpetuity, other than those required to be preserved, consistent with the Principles for Evaluating Development Proposals in Native Habitats. Conservation areas often consist of native habitat that fulfill open space or other requirements.



All lands within a development outside of private lots are considered *Common Land*. This includes any mutually owned areas like within an HOA community, including roads, stormwater ponds, sodded areas outside of private lots, Preservation, Conservation, and other Native Habitat Areas.

Common Lands include areas designated as *Open Space*. Per the Unified Development Code (UDC), most developments are required to have a certain percentage of Open Space, or areas not consisting of buildings and other impervious surfaces. The percentage of Open Space required per development is typically between a minimum of 30-50% of the proposed project area, however, the final required amount is determined during the development review process. Open Space is required to be comprised *first* of existing *Native Habitats* or other natural resources on-site (which are considered Preservation/Conservation Areas). Remaining Open Space area may then be comprised of stormwater ponds or other areas not containing buildings or impervious surfaces, and not located within a private lot.

However, even if the minimum percentage of required Open Space is met, native habitats that are “shall protect” habitats per the Comprehensive Plan may still be required to be preserved/conserved pending the habitat type; thus, the actual amount of Open Space may be greater than the minimum required.

Please note that in some older development Plans and Plats, some areas of Open Space Native Habitat may be labeled differently or not well identified at all. However, if any areas in the Civil Plans or Plat are designated as Open Space and if those areas contain Native Habitat per the Comprehensive Plan, then those areas are protected as Preservation/Conservation Areas in perpetuity. For questions or concerns regarding the interpretation of Civil Plans or Plats, please contact EPD staff.

Furthermore, in most large lot subdivisions, there may not be an Open Space requirement; however, preserving and conserving native habitat areas is still applicable per the Comprehensive Plan and UDC. Therefore, in these types of developments, each individual lot may own a portion of a native habitat (preservation/conservation area) within their lot boundary.

In current development reviews, mostly all Civil Plans and Plats will clearly delineate the boundaries of protected Native Habitat areas and use the terms “Preservation” or “Conservation” Area to label and define them.

Per the UDC, the amount of native habitat to be protected is determined through the development review process following the County’s Comprehensive Plan and Unified Development Code. Wetlands are typically the first type of habitat to be protected, followed by Mesic Hammocks, Scrub, and then other upland habitats.

Furthermore, prohibited uses within Native Habitat areas include the following:

- a. Construction or placing of buildings, roads, billboards, or other advertising, except for structures or uses associated with permitted road crossings or storm water management.
- b. Dumping or placing of soil or other substances or material as landfill, or dumping or placing of waste, or unsightly or offensive materials.
- c. Any trimming, alteration, or destruction of native plants, dead or alive, including trees, shrubs, grasses, forbs, or other vegetation, except for purposes related to safety or stormwater management.
- d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substances in such a manner as to affect the surface, except when associated with permitted stormwater management.
- e. Surface use, except for uses that allow the land or water areas to remain perpetually in its existing or improved natural native conditions or that allow uses, activities and structures associated with permitted road crossings or stormwater management.
- f. Activities detrimental to drainage, flood control, erosion control, or soil conservation.
- g. Installation, or retention exceeding permissible limits, of any plant material listed on the undesirable vegetation tables I through 3 in the Sarasota County Unified Development Code (UDC) Sec 124-177.
- h. Any cultural maintenance practices, including mowing, pruning, edging and the application of fertilizers.
- i. Acts or uses detrimental to such retention of land or water areas.

With Sarasota County approval, permissible activities within Wetland Native Habitat areas may include:

- a. Undesirable vegetation management following an approved Resource Management Plan (RMP) per the UDC, Article 9, Section 124-176 and 177.
- b. Planting of native vegetation following an approved planting plan.



With Sarasota County approval, permissible activities within other Upland Native Habitat Areas may include:

- a. Undesirable vegetation management following an approved Resource Management Plan (RMP) per the UDC, Article 9, Section 124-176 and 177.
- b. Planting of native vegetation following an approved planning plan.
- c. Nature trails and permeable pathways.
- d. Educational Signage.

#### HOW DO I KNOW IF THE AREA ADJACENT TO MY PROPERTY IS A PRESERVATION, CONSERVATION, OR NATIVE HABITAT AREA?

The best ways to determine if a Preservation or Conservation Area is located adjacent to your property is:

1. Review approved Construction plans, Plats, and other permitting documents for your community. This may also include Rezoning Ordinances, Master Development Orders, Neighborhood Plans, Resource or Land Management Plans, Conservation Easements or Open Space Declaration of Restrictive Covenants, etc. These may be found within your HOA documents, or by submitting a Public Records Request with the County. Plats are generally available on the Sarasota County Clerk of Court, Official Records website under "Plats and Condos".
2. Have a professional surveyor delineate the boundary of your property and adjacent Preservation or Conservation Areas.
3. Contact the Environmental Protection Division at (941) 861-5000.

#### WHAT ARE THE FUNCTIONS AND VALUES OF HAVING A PRESERVATION OR CONSERVATION AREA?

Preservation and Conservation Areas are intended to safeguard natural environmental resources that have been functioning on this planet for millennia. Though anthropogenic activities impact much of the Earth's eco-systems, some governmental agencies have organized environmental departments to serve as liaison between development rights and environmental protections. The County's Comprehensive Plan provides further insight on the values and goals of safeguarding environmental features, such as air and water quality, flood control, wildlife habitat, to name a few.

## WHAT ARE UNDESIRABLE VEGETATIVE SPECIES?

Undesirable vegetation consists of Exotic Invasive, Nuisance Invasive, and Ornamental species.

Exotic Invasive Vegetation has been introduced by humans and has become increasingly difficult to manage once they've established. Exotic vegetation is non-native and does not belong to the area, state, country, or even this continent. Exotic vegetation often become invasive because they do not have limiting factors to control them, thus, they become established, decrease biodiversity, displace native plant and animal communities, reduce wildlife habitat and forage opportunities, alter the hydrology and therefore degrade the environmental quality of the habitat. Brazilian pepper trees are an example of exotic-invasive vegetation that will outcompete and displace native vegetation by growing into monocultures and dominating a habitat.

Nuisance Invasive Vegetation are native vegetative species that due to limiting or lack of natural controls (wildfire, reduction of biodiversity of plants and wildlife in the habitat) become threats to other plants or monocultures in the habitat therefore devaluating the quality of the habitat. Some examples of nuisance species include native vines overgrowing on trees or other vegetation, that obstruct the light, and therefore causing stress or mortality; and native strangler figs (e.g., *Ficus aurea*), which will grow entangled with other trees, potentially causing stress and mortality.

When a habitat is disturbed through development, earthmoving, or landscaping, invasive vegetation will tend to invade the impacted areas. Invasive vegetative species vary based on the habitat type, but among the most common species are Brazilian pepper, melaleuca, Australian pines, cattails, air potato among others.

Ornamental vegetation is typically utilized in landscaping and consists of flowering, cultivated, or hybridized species not naturally found in the Florida environment. Examples include Bird of Paradise (*Strelitzia spp.*), Travelers Palm (*Ravenala madagascariensis*), Washingtonia Palm (*Washingtonia robusta*), some Hibiscus species (*Hibiscus spp.*), to name a few. Of course, not all exotic/non-native vegetation are invasive, though these species should still not be planted within or around natural areas. Thus, removal of any other non-native or ornamental vegetative species from the Preservation and Conservation Areas is still required.

## WHY ARE SOME DEVELOPMENTS REQUIRED TO MANAGE AND MAINTAIN PRESERVATION AND CONSERVATION AREAS FOR UNDESIRABLE VEGETATIVE SPECIES?

Though earlier versions of the County's Comprehensive Plan and Environmental Land Development Regulations required preserving and conserving native habitats, there may not have been requirements for undesirable vegetation management from these areas, unless required during the development review process (e.g., mitigation proposals).

As the County's Comprehensive Plan and Environmental Land Development Regulations evolved to address the invasion of undesirable vegetation within native habitats intended for protection, requirements were established for developments to integrate a Resource Management Plan (RMP) for



undesirable vegetation management. Thus, most developments (after 2005) have requirements to manage designated Preservation and Conservation Areas.

Current development proposals will be subject to undesirable vegetation management requirements as provided in Article 9, Section 124-176 and 177, UDC as amended, and as supported by the County's Comprehensive Plan as amended.

Prior developments that are not required to manage designated Preservation or Conservation Areas per development order may voluntarily adopt a Resource Management Plan (RMP) for their habitat areas. The RMP shall follow the requirements per the UDC and must first be approved by Sarasota County Environmental Permitting and Protection staff prior to implementing management activities.

#### WHO IS RESPONSIBLE FOR THE PRESERVATION AND CONSERVATION AREAS?

Though Preservation and Conservation Areas are regulated by County, State, and sometimes Federal jurisdiction, they are typically privately owned within a development.

Most Preservation and Conservation Areas are designated by separate tracts of land owned by the Homeowners Association (HOA), which will be the *responsible* entity.

In some cases, Preservation and Conservation Areas fall within individual residential property boundaries, in which case, the residential property owner is the *responsible* entity.

#### WHAT IS A BUFFER ZONE (AKA. UPLAND BUFFER)?

A Buffer Zone is designated upland area located directly adjacent to a wetland habitat. The upland buffer helps mitigate impacts from the adjacent development, such as artificial light, noise, pets, fertilizers, construction, pollution run-off, etc. These factors have the potential to impact the wetland functions and wildlife utilization. The buffer zone is considered an upland component of the wetland habitat that is utilized by many wildlife species.

The upland buffer is considered part of the Preservation Area.

#### THE BUFFERS LOOK AESTHETICALLY UNPLEASANT DUE TO LAYERS OF FALLEN PALM FRONDS, VINES, AND OTHER VEGETATIVE DEBRIS. CAN THE ASSOCIATION HIRE SOMEBODY TO "CLEAN UP" THE LITTER?

Buffers generally do not need to be "cleaned" up. Instead, buffers should be left in their natural state because they are an important element for protecting the interior habitats. Buffers provide an upland component to the adjacent wetland ecosystem. Leaving the buffer in its natural state encourages the decomposition cycle, which is an important biological process that creates microhabitats, food sources, nesting areas, denning areas, and returns nutrients to the soil.

In recent years, the County requires new developments to have a Resource Management Plan, which is a set of scheduled activities (“maintenance”) that improve the habitat by removing nuisance (e.g. vines) and exotic (e.g. Brazilian peppers) species to allow native species to establish. These activities are conducted on cyclical timeframes. These activities do not include horticultural or landscaping practices.

However, dumping any additional debris from adjacent landscaping practices or other sources is prohibited within the Preservation and Conservation Areas.

#### **CAN RESIDENTS EXPLORE THE PRESERVATION AND CONSERVATION AREAS IN THEIR NEIGHBORHOOD?**

Residents can explore and enjoy these areas and learn more about living next to a native habitat. Residents may walk through the Preservation and Conservation Areas for enjoyment of these habitats; however, please be aware that removal of vegetation, inhibiting wildlife function, creating trails, and other unauthorized activities are prohibited.

Please be aware that these areas are natural habitats, and individuals may encounter various wildlife, insects, and poisonous vegetation. Pets are only allowed if they are on a leash and picked up after.

#### **IF A TREE LIMB OR OTHER VEGETATION FROM A PRESERVATION AREA ENCROACHES INTO MY PROPERTY, MAY THE LIMB BE TRIMMED?**

Yes, native tree limbs may be trimmed unless the tree is designated as a Grand Tree (per County Code of Ordinances, Chapter 54, Article XVIII.-TREES). For all other native trees, limbs that extend out of a preservation or conservation area and beyond a property line may be trimmed by an ISA Certified Arborist following ANSI standards. These standards have been developed to ensure the health of the trees is maintained. Please discuss your plans with your homeowner’s association board/property manager and contact the County Environmental Protection Division Staff for approval.

#### **IF A TREE IS DEAD IN A PRESERVATION OR CONSERVATION AREA, BUT IN REACH OF MY PROPERTY, MAY I CUT IT DOWN?**

Residents should contact their property manager and the Environmental Protection office at (941) 861-5000. County staff will conduct an inspection to determine if the tree is dead, stressed, or diseased and the proper way to address it.

#### **PLEASE SEE THE BELOW INFORMATION REGARDING DAMAGED TREES WITHIN PRESERVATION AND CONSERVATION AREAS.**

Pruning of trees from the Preservation and Conservation Areas that are hanging over the boundary line is possible if the proposed pruning does not damage the tree overall (for example, damage could be caused by cutting an arterial limb and disbalancing the tree, or improper cuts could invite disease and

rot). Improper pruning of trees may result in declining the health of the tree, and ultimately cause mortality. This would then result in non-compliance for altering and damaging native vegetation within designated Preservation or Conservation Area. Contracting an ISA certified arborist to assess and conduct trimming activities is pertinent to ensure proper pruning and maintain the health of trees.

Guidance for damaged, uprooted, or fallen trees within Preservation and Conservation Areas.

1. For Native trees that are uprooted and hanging across the preservation/conservation boundary line into other Private or Common property, or for Native trees that have fallen across the preservation/conservation boundary line:
  - i. These trees may be cut at the boundary line, and the debris crossing the preservation or conservation area boundary may be dispersed throughout the preservation or conservation area to decompose naturally if there is space and the debris is not stockpiled in one place.
  - ii. If there is no room to reasonably disperse debris to prevent stockpiling, the debris crossing over the boundary line may be removed and properly disposed of while the portion within the preservation or conservation area boundary may remain to decompose naturally.
2. For Native trees that are uprooted but remain within the preservation or conservation area boundary, these trees may be cut so that they are no longer suspended, though the tree shall remain in the preservation or conservation area to decompose naturally. Uprooted stumps may be turned upright.
3. Non-native and nuisance trees may be removed entirely from the preservation or conservation area and properly disposed of. This work shall be conducted by an Environmental Consultant to ensure adverse impacts to the preservation or conservation area are prevented, and the activities must be approved by Environmental Protection Division staff.
4. For any broken or hanging limbs of native trees, these may be cut to remove the immediate safety concern, though must be reviewed by an ISA licensed arborist to ensure proper pruning is completed and the remaining tree is in good health. The debris may be left in the preservation or conservation areas to decompose naturally.
5. For all other vegetation debris that is outside of the preservation or conservation area boundary, please properly dispose of this material, and do not dump debris into the preservation or conservation areas.
6. Photo-document all areas of concerns from the preservation or conservation areas prior to conducting debris removal activities.

#### CAN RESIDENTS' PLANT IN PRESERVATION AND CONSERVATION AREAS?

Residents may not plant vegetation in the Preservation or Conservation Areas. The County encourages the planting of native plants and trees within native habitat preservation areas; however, to ensure the appropriate vegetation is being planted in the appropriate place, planting within a Preservation or Conservation Area is required to be part of the management plan for the site. The management plan must be approved and authorized by Environmental Protection Division (EPD) staff, and the work must be conducted or supervised by an Environmental Consultant/Professional. The planting of exotic, ornamental landscape plants is not allowed within Preservation and Conservation Areas.

#### CAN RESIDENTS USE HERBICIDES ON A PROPERTY NEXT TO A PRESERVATION OR CONSERVATION AREA?

Although a resident can apply herbicide within their property boundary, herbicides could potentially impact the native vegetation if applied directly adjacent to a Preservation or Conservation Area boundary. Herbicide applications near or within a Preservation or Conservation Area, or other natural area, should be EPA-approved and applied by a licensed Natural Areas Weed Applicator. These licensed professionals are trained to handle chemicals which can be harmful to the environment if applied in an appropriate manner.

Please be aware that most home store (Home Depot, Lowes, etc.) chemicals are oil based with restrictions and are not permitted within or near natural areas that retain water, such as wetlands or mesic hammocks. Homeowners applying herbicides adjacent to Preservation and Conservation Areas may use water soluble herbicides.

#### CAN VEGETATIVE OR OTHER DEBRIS AND MATERIALS BE DUMPED INTO THE PRESERVATION AND CONSERVATION AREAS?

Vegetative debris, yard waste, and any other materials, waste, or trash, **may not** be dumped, thrown, buried, or burned within a Preservation or Conservation Area per the County Comprehensive Plan and Unified Development Code. All materials must be disposed of properly at an off-site location or by your community's scheduled waste collection.

#### WHAT IS THE PROBABILITY OF A WILDFIRE IN A PRESERVATION OR CONSERVATION AREA NEXT TO YOUR HOME?

The possibility of a natural fire in a Preservation or Conservation Area is considered low because most of the preserved habitats located in subdivisions are wetlands or mesic hammocks. In other words, both systems hold water in their soils and rarely become a fire hazard.

The 30-foot defensible space around homes refers to medium and high-risk areas such as suburban or rural neighborhoods. In the case of subdivisions, the buffers between the residences and a protected Preserve boundary varies throughout the county (5 to 50 feet). Also, there are other factors

that would make a house a low hazard or a high hazard, based on: Access, Habitat/Vegetation, Building Construction, Fire Protection, and Utilities.

For example, if the Preservation or Conservation Area is not a wetland or a mesic hammock, and your home is adjacent to a large area of pine flatwoods or scrub, then the possibility of a fire is higher. Sarasota County does not generally allow fire management in gated communities due to the high residential density, but other techniques, such as roller-chopping, brush hogging, mowing, disking, and logging, can be implemented to maintain the vegetative fuel at a low density and reduce the probability of wildfires. These types of management techniques are addressed in a Resource Management Plan.

Overall, most of the subdivisions within the urban area of Sarasota County are considered low hazard for wildfires.

#### WHAT TYPES OF WILDLIFE LIVE IN PRESERVATION AND CONSERVATION AREAS?

Florida wildlife is abundant and diverse. Some are permanent residents, while others winter in our area. Wildlife ranges from micro-organisms, invertebrates, spiders and insects, reptiles, birds, and mammals. The most observed wildlife in Sarasota Preservation and Conservation Areas are otters, raccoons, rabbits, other rodents, deer, herons, egrets, ibis, ducks, hawks, frogs, turtles, snakes, and alligators, to name a few.

Unfortunately, much of the wildlife may be displaced from their homes with increased development. Protecting native habitats increases the survivability of these wildlife species.

#### IS WILDLIFE PROTECTED IN THE PRESERVATION AND CONSERVATION AREAS?

Only wildlife considered “listed” would be protected by state and/or federal rules. The term “listed” relates to species that are threatened or endangered of extinction.

The agencies that have jurisdiction over wildlife protection are the U.S. Fish and Wildlife (federal government) and the Florida Fish and Wildlife Conservation Commission (state). Sarasota county coordinates with these agencies in reviewing development/permit proposals. Examples of these species in our area are: bald eagles, Florida sandhill cranes, gopher tortoises, indigo snakes, alligators, manatees, and sea turtles to name a few.

The Preservation and Conservation Areas within your community, or the communities nearby, create corridors that wildlife utilize as their home range. The size of their home range varies from small to large areas, depending on the species.

#### WHAT CAN MY COMMUNITY DO TO PREVENT ENCROACHMENTS, AND PASS ALONG INFORMATION REGARDING THE NATURAL RESOURCES WITHIN THE COMMUNITY?

There are several helpful steps to synergize your community's residents to protect the Preservation and Conservation Areas, avoid encroachments, and enjoy the natural beauty of the various habitats. The following is a list of ideas that many communities accomplished:

- a. Survey the boundary of the Preservation and Conservation Areas and install signs to delineate the boundary line. This helps mark the location of the regulated Preservation and Conservation Areas and will remind residents and landscapers where the limits of the Preserve boundary are located. Please see Section 124-251(a)(2), Article 13, UDC, for guidelines of appropriate sign details.
- b. Provide information regarding the Preservation and Conservation Area requirements and guidelines in an informational packet, pamphlet, community webpage or newsletter.
- c. Arrange a presentation by Environmental Protection Division (EPD) staff for the residents within your community to attend for information and outreach.

#### WHO DO YOU CONTACT FOR QUESTIONS OR CONCERNS REGARDING THE PRESERVATION AND CONSERVATION AREAS?

If you have questions or concerns regarding the Preservation and Conservation Areas within your community, contact your HOA, Property Manager, or Master HOA first, and then have your representative contact Environmental Protection Division (EPD) staff for additional information. Any proposed activities within the Preservation and Conservation Areas must be proposed by the HOA Board, Property Manager, and/or HOA Master Association, and must be approved by EPD staff.

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