



**LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)
USE REGULATIONS PROJECT SUB-COMMITTEE**

THURSDAY, JUNE 11, 2015 AGENDA
2300 NORTH JOG ROAD
1ST FLOOR HEARING ROOM (VC-1W-47)
2:00 P.M. – 4:00 P.M.

A. CALL TO ORDER

1. Introductions
2. Additions, Substitutions, and Deletions
3. Motion to Adopt Agenda
4. Adoption of June 18, 2014 Meeting Summary (Exhibit A)

B. SUBCOMMITTEE RULES AND PROCEDURES

C. OVERVIEW

1. General Changes to the ULDC
2. Presentation Format for Subcommittee

D. UTILITY USES

1. Article 4, Use Regulations (Exhibit B)
2. Discussion

E. EXCAVATION USES

1. Article 1.B, Interpretation of the Code (Exhibit C)
2. Article 4, Use Regulations (Exhibit D)
3. Discussion

F. STAFF COMMENTS

1. Public and Civic Uses
2. Commercial Uses
3. Temporary Uses
4. Agricultural Uses

G. ADJOURN

EXHIBIT A

PALM BEACH COUNTY LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB) USE REGULATIONS PROJECT SUBCOMMITTEE

JUNE 18, 2014 MEETING SUMMARY

Prepared by Monica Cantor, Senior Planner

On Tuesday, January 18, 2014, the Use Regulations Project Subcommittee held a meeting at the Vista Center, Room VC-1E-47 Conference Room at 2300 North Jog Road, West Palm Beach, Florida.

A. CALL TO ORDER

The meeting commenced at 2:06 p.m.

1. Introduction of Members, Staff and Interested Parties

LDRAB Subcommittee Members: Joni Brinkman and Jim Knight.

Interested Parties: Bradley Miller, Jennifer Morton, and Pat Lentini.

County Staff: Rebecca Caldwell, Maryann Kwok, Joanne Keller, William Cross, Monica Cantor, Lauren Dennis, Erin Fitzhugh-Sita, and Jean Matthews.

2. Additions, Substitutions and Deletions

Ms. Cantor noted that staff distributed Amendments to the Agenda for Exhibit B.

3. Motion to Adopt Agenda

Motion to adopt agenda by Ms. Brinkman seconded by Mr. Knight (2 - 0).

4. Adoption of January 28, 2014 Meeting Summary (Exhibit A)

Motion to adopt January 28, 2014 Meeting Summary by Ms. Brinkman, seconded by Mr. Knight.

B. SUBCOMMITTEE RULES AND PROCEDURES

Ms. Cantor presented a general overview of the subcommittee's goals and objectives. She explained that staff will follow the same methodology used at previous meetings: presentation by staff to include a brief overview of proposed draft amendments; discussion and feedback of material by the Subcommittee and interested parties; conclusion with recommendations by the Subcommittee.

C. RESIDENTIAL USES

1. Article 4, Use Regulations (Exhibit B)

Ms. Cantor used a power point presentation to indicate general changes to the Project that included:

- Changing the order in which uses will be addressed as indicated in the timeline. Commercial uses will be the last use classification to be addressed to be concurrent with the Planning Division's Commercial policies in the Comprehensive Plan.
- Reorganization of Residential Uses to be broken into two groups, principal uses and accessory uses. Principal residential uses will continue to be shown in the Use Matrix while accessory uses will have a designated section that indicates the corresponding principal uses. Both will be subject to supplementary use standards.
- Potential future revision of Farm Residence use and Mobile Home accessory to Bona Fide Agriculture, after the Planning Division Agricultural Reserve (AGR) Tier workshop with the Board of County Commissioners.
- Clarification on removal of the term "dwelling" or "dwelling units" related to accessory uses as that implies density and accessory uses are not counted as density.

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JUNE 18, 2014 MEETING SUMMARY

Ms. Cantor clarified that Nursing or Convalescent Facility use will be addressed along with Public and Civic use classification. It will remain as part of the Residential Use classification and be included in this section of the Code at a later date.

All Residential Uses were presented by staff and the following uses were discussed:

- **Congregate Living Facility – Presenter: Lauren Dennis**
 - Delete types of facilities from definition for consistency with project standardizing protocol and add the Agency for Health Care Administration (AHCA) term assistive care services. Clarification is needed to determine if Health Services include Mental Health.
 - Note #2 in Type 3 CLF Maximum Permissible Occupancy table is not clear as it does not indicate if sites with no underlying density need to change the Future Land Use designation or not. Planning Division staff clarified that density was given by the Planning Director based on the site's surrounding density. Standard is to be revised.
 - CLF to CLF measurement of separation distance needs clarification as the language does not specify if it is measured between structures or property line. Further revision is needed to ensure consistency with State Statutes 419.001.
 - Distance from Fire rescue station standard was recommended to be kept or create a reference to check with the Fire Department what would be the applicable minimum distance from a CLF to a Fire Station.
 - Review why standard applicable to CLF height restriction is now applicable to all zoning districts, not just Planned Development Districts (PDDs), as it is currently in the Code.
 - Consider deletion of the 10% accessory commercial uses restriction related to CLF.
- **Farm Residence - Presenter: Lauren Dennis**

As presented in the add/delete, Farm Residence was relocated from principal use to accessory use which resulted in deletion of the use from the Use Matrix and relocation in the accessory use table.
- **Mobile Home Dwelling - Presenter: Lauren Dennis**

No comments were made on this use. Staff clarified that standards applicable to Mobile Home accessory to Bona Fide Agriculture have been relocated under the principal use Bona Fide Agriculture. Staff also explained that standards contained in the use related to temporary use of Mobile Home while constructing Single Family dwelling in the Agricultural Residential Zoning District of the Rural Service area, have been relocated to Article 5, Supplementary Regulations, along with similar provisions for temporary structures.
- **Multifamily - Presenter: Monica Cantor**

Ensure that deletion of vertical integration of multifamily in Traditional Marketplace Development (TMD) is not contrary with Plan policies or the TMD portion of the Code.
- **Single Family - Presenter: Monica Cantor**

Consider adding a standard to clarify that Single Family and Farm Residence cannot be permitted on the same site.
- **Townhouse - Presenter: Monica Cantor**

No comments were made on this use.
- **Zero Lot Line - Presenter: Monica Cantor**

No comments were made on this use.
- **General Standards for Accessory Uses - Presenter: Monica Cantor**

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Staff noted changes to the uses shown in the add/delete. Minor correction to the accessory uses table is necessary to clarify Single Family and Farm Residence cannot be placed on the same site.

- **Accessory Dwelling - Presenter: Monica Cantor**
Staff noted changes to the use shown in the add/delete. No comments were made on this use. Recommendation was given to consolidate all quarter uses into one place rather than individual uses.
- **Security or Caretaker Quarters - Presenter: Monica Cantor**
 - Staff noted changes to the use shown in the add/delete.
 - Possible change to the standard related to Mobile Home used as Caretaker Quarters permitted in AGR and AP Zoning Districts after Planning Division gets Board of County Commissioner's direction on possible changes to the Agriculture Reserve (AGR) Tier Plan policies.
- **Estate Kitchen - Presenter: Monica Cantor**
No comments were made on this use.
- **Farm Residence - Presenter: Lauren Dennis**
 - Staff noted relocation of standards from principal use to accessory as shown in the add/delete.
 - This use is only accessory to Bona Fide Agriculture limited to Agricultural Production (AP) and AGR Zoning District, subject to possible changes pending Board direction to Planning Division on AGR Tier policies.
 - Reason for amendment which explains that uses accessory to Single Family should be also accessory to Farm Residence. This is to be a note in the accessory uses table.
 - Consider adding a standard to clarify that Single Family and Farm Residence cannot be permitted on the same site following AGR workshop.
- **Farm Workers Quarters - Presenter: Lauren Dennis**
No comments were made on this use.
- **Garage Sale - Presenter: Monica Cantor**
Standard related to limiting the number of sales per year to two was retained to minimize possible change in the nature from temporary to permanent commercial to avoid long term commercial activity in residential zoning districts.
- **Groom's Quarters - Presenter: Monica Cantor**
 - Staff noted relocation of Groom's Quarters standards under Commercial Stable and Private Stable since the use is only accessory to those two uses.
 - Revision of kitchen facilities removal standard to include specific time for the removal.
 - Discussion regarding the approval process as a Class A Conditional Use was required when the number of Groom's Quarters was proposed at 101 or more.
- **Guest Cottage - Presenter: Monica Cantor**
Staff noted changes to the use shown in the add/delete. No comments were made on this use.
- **Home Occupation - Presenter: Lauren Dennis**
No comments were made on this use.
- **Kennel Type 1 (Private) - Presenter: Monica Cantor**
Staff clarified this use is now split into two uses: Type 1A relates to non-commercial care of cats and dogs owned by the occupant of single family, farm residence or zero lot line use,

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while Type 1B corresponds to a commercial use allowed in residential zoning districts. Staff explained that Type 1B is subject to specific research and public participation to be developed during the commercial uses review.

- **Runs and Kennels - Presenter: Monica Cantor**

Staff explained that general standards currently contained under Kennel Type 1 (Private) were relocated to Article 5, Supplementary Regulations in a new section established for this purpose. Standards include Outdoor Runs hedges, fences, setbacks and specific rules for guard dog shelters.

- **Mobile Home - Presenter: Monica Cantor**

Staff explained this section was created in Article 5 to consolidate general utilization of Mobile Homes either as dwelling units or structures.

- **Mobile Home While Constructing Single Family Dwelling- Presenter: Lauren Dennis**

No comments were made on this use.

Motion by Ms. Brinkman to move staff's recommendations to LDRAB on all uses, including tentative changes resulting from the recommendations provided during the Subcommittee meeting. Mr. Knight seconded the motion (2 - 0).

D. STAFF COMMENTS

1. **Industrial Uses**

No additional changes are seen at this time.

2. **Residential Uses**

Ms. Cantor reminded subcommittee participants of the minor correction related to the approval process for Fitness Center. This applies to Light Industrial pod of a Planned Industrial Park Development (PIPD) District that was not reflected in the Use Matrix presented to LDRAB.

3. **Utilities and Excavation Uses**

Ms. Cantor informed participants that staff is currently working on amendments to utility uses.

4. **Commercial Uses**

Staff mentioned that even though commercial uses are addressed later in the Project's timeline, internal meetings with the Planning Division continue to be held in preparation for the concurrent amendments to the Comprehensive Plan and the Code.

It was agreed that the follow up meeting scheduled in July to continue discussion of Residential uses will be canceled as all uses have been addressed and just minor revisions and modifications will be necessary.

E. ADJOURN

The meeting adjourned at 3:40 p.m.

EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

1 Reasons for amendments in the Use Matrix are listed under each use.

TABLE 4.B.7.A UTILITY USE MATRIX

STANDARD DISTRICTS														Use Type	Supplementary Standards #	PLANNED DEVELOPMENT DISTRICTS (PDDs)												TRADITIONAL DEV. DISTRICTS (TDDs)									
AG/CON		RESIDENTIAL					COMMERCIAL									IND	INST	PUD			MUPD				MXPD	PIPD	M	R	LCC	TND			TMD				
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														UTILITY																							
														Air Curtain Incinerator (RELOCATED TO TEMPORARY USES)																							
														Communication cell sites on wheels(COW) (RELOCATED TO TEMPORARY USES)																							
														Communication Panels, or Antennas, Commercial (CONSOLIDATED W/COMMERCIAL COMMUNICATION TOWER USES)																							
														<i>Commercial</i> Communication Tower, <i>Commercial- See Art. 4.B.8.</i>																							
														Excavation (Agricultural, Type 1, 2, and 3) (RELOCATED TO EXCAVATION USES)																							
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Ord. [

Use approval process key:

P Permitted by Right	D Subject to DRO Approval	A Subject to BCC Approval (Class A Conditional Use)
S Subject to Special Permit Approval	B Subject to Zoning Commission Approval (Class B Conditional Use)	- Prohibited use, unless stated otherwise within Supplementary Use Standards

Notes:
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 LDRAB URP Subcommittee June 11, 2015

EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

AIR CURTAIN INCINERATOR AND COMMUNICATION CELL SITES ON WHEELS (COW) HAVE BEEN RELOCATED TO ART. 4.B.11, TEMPORARY USES TO BE ADDRESSED AT A LATER TIME.

COMMERCIAL COMMUNICATION TOWERS AND COMMERCIAL COMMUNICATION PANEL OR ANTENNAS HAVE BEEN CONSOLIDATED AND RELOCATED TO NEW USE CLASSIFICATION ART. 4.B.9, COMMERCIAL COMMUNICATION TOWERS, TO BE ADDRESSED AT A LATER TIME.

AGRICULTURAL EXCAVATION, TYPE 1 EXCAVATION, TYPE 2 EXCAVATION, TYPE 3A EXCAVATION AND TYPE 3B EXCAVATION HAVE BEEN RELOCATED TO NEW USE CLASSIFICATION IN ART 4.B.10, EXCAVATION INDICATED IN SEPARATE EXHIBIT.

Part 1. New ULDC Art. 4.B.5, Industrial Uses, is hereby established as follows:

CHAPTER B USE CLASSIFICATION

SECTION X INDUSTRIAL USES

C. Definitions and Supplementary Use Standards for Specific Uses

11. Recycling Center

HISTORY: The Recycling Center use definition and supplemental standards were first referenced as part of the 1992 ULDC (Ord.1992-020). The definition and supplemental standards were amended by Ord. 2003-067 and 2013-001.

Reason for amendments: [Zoning]

1. Revise the definition standard to:
 - Delete limited processing of recyclable materials as the activity of processing is more intense than a recycling center. The revision will clarify that processing of recyclable materials will be addressed by the Recycling Plant use. Pursuant to Florida Administrative Code (FAC) 62.722, revise the definition to delete the term “recyclable” as it includes the collection and processing of solid waste and utilize the term recovered as it does not include solid waste.
2. Relocate and consolidate Standards for Screening and Buffering to Article 5.B, ACCESSORY AND TEMPORARY USES.
3. Update the “DRO Approval Exception” standard to be consistent with updates reflecting most restrictive approval process in the Use Matrix. The revision will clarify under what circumstances a Recycling Center requiring Class A Conditional Use approval may be approved by the DRO. The revision will also address potential adverse impacts to residential districts and will be consistent with similar uses, such as Recycling Plant.
4. Relocate and simplify Access standard for brevity and consistency with Recycling Plant use in Industrial Classification.
5. Establish Operation Functions standard related to site plan and dust control provisions to clarify requirements for submittal. The standard would be in addition to Article 2.A.1.G.3, Plan Requirements, and the Palm Beach County Zoning Technical Manual.
6. Establish SWA Permit standard to clarify Zoning approval is required prior to SWA permit review for this use.

a. Definition

A permanent facility designed and used for collecting, purchasing, storing, dropping-off and redistributing of pre-sorted, ~~recyclable recovered~~ materials that are not intended for disposal. ~~A recycling center shall be used for limited processing of recyclable materials, such as can and glass crushing and sorting.~~[Ord. 2013-001]

a. Access

~~Access from a Local Residential Street shall be prohibited. Access from a Local Commercial Street that also serves residential uses shall be prohibited.~~ [Ord. 2013-001][Relocated to 4.B.5.C.11.c below]

b. Screening

~~All outdoor recycling collection, processing, loading, storage or other similar activities shall be screened from view from streets or adjacent lots. In no case shall recyclable or recovered materials or non-recyclable residue stored in outdoor areas exceed 15 feet in height.~~ [Ord. 2013-001][Relocated to 5.B.1.A.3, Outdoor Storage and Activities]

be. DRO Approval Exception

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

A ~~Recycling Center~~ subject to Class A Conditional Use approval located in an MUPD with a CH-FLU designation, the Commercial Pod of a PIPD or the CG Zoning district, where the use is permitted by Table 3.E.3.B, PDD Use Matrix or Table 4.A.3.A, Use Matrix, may be approved by the DRO, provided that the use recycling center complies with one of the following: **[Ord. 2013-001]**

- 1) Located completely within enclosed buildings; or, **[Ord. 2013-001]**
- 2) ~~Does not abut an adjacent parcel or land with the following uses or FLU designations: residential, civic, institutional, recreation or conservation. An exception shall be permitted when the recycling center, including all outdoor recycling collection, processing, storage or other similar activities, is located a minimum of 500 feet from the applicable parcel or land. Measurement shall be made by drawing a straight line from the designated recycling center use area to the perimeter of the applicable parcel or land. [Ord. 2013-001]~~

The use shall be located a minimum of 500 feet from a parcel with a residential, civic, institutional, recreation or conservation FLU designation, zoning district or use. The measurement shall be made by drawing a straight line from property line to property line.

c. Access

Access shall be limited to arterial, collector, or local commercial streets which do not serve residential uses. [Partially Relocated from 4.B.5.C.11.a]

d. Operation Functions

The Zoning application shall include a written narrative and supporting documentation demonstrating acceptable industry design, configuration and operational standards, based on the type of materials processed and stored, including but not limited to the following:

1) Site Plan

The Site Plan shall illustrate how the operation functions including circulation routes; and, the location and size of: equipment, loading and processing areas, and storage piles.

2) Dust Control

A plan to address how dust generated from traffic, storage and processing areas will be managed pursuant to 5.E.4.D.3, Dust and Particulate.

3) SWA Permit

Prior to operation of the facility, the owner or operator shall obtain a SWA Permit.

Reason for amendments: [Zoning]

1. Change the approval process in the Light Industrial (IL) Zoning District, Multiple Use Planned Development (MUPD) with Industrial (IND) Future Land Use (FLU) designation and Light Industrial (IND/L) Pod of a Planned Industrial Park Development (PIPD) from Permitted to Class A Conditional Use to indicate the most restrictive approval process in the Matrix. The existing "DRO Approval Exception" standard has been amended to clarify under what circumstances a Recycling Center requiring Class A Conditional Use approval may be approved by the DRO. The revision will also address potential adverse impacts to residential districts.
2. Delete the approval process in the Neighborhood Commercial (CN) Zoning District. A Recycling Center does not meet the intent of the definition of a neighborhood serving commercial facility.

USES PENDING DETERMINATION OF CLASSIFICATION

1. Chipping and Mulching

HISTORY: The Chipping and Mulching use definition and supplemental standards were first referenced as part of the 1992 Unified Land Development Code (ULDC) Ordinance (Ord.) 1992-020. The definition was amended by Ord.1997-064, 1999-037 and 2003-067. The supplemental standards were amended by Ord.1997-064, 1999-037, 2003-067, 2003-068, and 2005-002.

Reason for amendments: [Zoning]

1. Revise definition to clarify that Chipping and Mulching is limited to tree limbs, yard trash or brush. Delete reference to wood construction debris as it will be addressed under the Recycling Plant use. Addition of yard trash to definition for consistency with Florida Statute (F.S.) 403.703.
2. Add a new use standard limiting the approval of a Chipping and Mulching use in the AP Zoning District accessory to a Bona Fide Agricultural use. A stand alone Chipping and Mulching use may have industrial-type impacts. The standard would intend to limit the potential for a large-scale, regional facility in these zoning districts.
3. Clarify that Chipping and Mulching can operate in a Recycling Plant as collocated use subject to the standards contained in the use and Development Review Officer (DRO) approval since the principal use, Recycling Plant, is Class A Conditional use where permitted. This less restrictive approval process recognizes that Chipping and Mulching is commonly included in Recycling Plants.
4. Standard related to Potting Soil manufacturing accessory to Chipping and mulching to be relocated to the Potting and Soil Manufacturing for consistency with construction of the Code that identifies

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

	when a principal use may be utilized as accessory use to another principal use.
5.	Revise the following Outdoor Storage provisions to assist county agencies in enforcement and regulation: <ul style="list-style-type: none"> Delete references to unprocessed under outdoor storage, as SWA and the Health Department do not differentiate between the two. The 45 day limitation will apply to all outdoor storage material. Add bollard requirements to delineate location of storage piles, maximum height and ground elevation. Delete Agricultural Production (AP) exceptions (including height and 45 day limitation) ensuring all zoning districts are regulated consistently.
6.	Rename Supplemental Application Requirements to Operation Functions and revise standards related to site plan and justification statement to clarify requirements for submittal. The standard would be in addition to ULDC Article 2.A.1.G.3, Plan Requirements, and the Palm Beach County Zoning Technical Manual.
7.	Establish Solid Waste Authority (SWA) Permit standard to clarify zoning approval is required prior to SWA permit review for this use.
8.	Establish new separation distance requirement consistent with Recycling Plant and clarify measurement is from property line to property line. The revision will also address potential adverse impacts to residential districts and will be consistent with similar uses, such as Recycling Plant.

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- a. Definition**
An establishment using equipment designed to cut tree limbs, yard trash, or brush ~~or wood construction debris~~ into small pieces for use as mulch.
- b. Approval Process - AP Zoning District**
A Chipping and Mulching Use shall only be allowed in the AP Zoning Districts on the site supporting a Bona Fide Agricultural use.
- c. Access**
Access shall be limited to arterial, collector, or local commercial streets which do not serve residential uses. Entrances shall be gated and set back from the road to prevent access during non-operating hours from unauthorized persons. [Partially Relocated from 4.B.5.C.2.d]
- ad. Lot Size**
A minimum of five acres.
- b. Setback**
A minimum of 500 feet from any property line abutting a residential district.
- e. Collocated Uses to Recycling Plant**
Chipping and Mulching may be approved by the DRO subject to the supplementary use standards for Chipping and Mulching.
- ~~**c. Accessory Uses**
Potting soil manufacturing may be allowed as an accessory use to chipping and mulching. [Relocated to 4.B.5.C.10.f, Recycling Plant]~~
- d. Access**
~~An access road for collection vehicles shall be provided to the entrance of the facility. Access from a local residential street shall be prohibited. Access from a local commercial street shall be prohibited where the street also serves residential uses. Access shall be restricted to specific entrances with gates that can be locked and that carry official notice that only authorized persons are allowed on the site. [Ord. 2005-002] [Relocated to 4.B.5.C.2.b]~~
- e. Outdoor Storage**
 - 1) Outdoor storage shall be set back a minimum of 25 feet from any property line or 50 feet from any property line abutting a parcel with a residential FLU designation, zoning district or use.
 - 2) Bollards shall be provided to delineate pile locations.
 - 3) The pile height of storage materials shall be limited to 15 feet. Bollards shall be maintained to indicate maximum permitted height, and tied to a finished grade benchmark delineated on site.
 - 4) Except in the AP district, outdoor storage of unprocessed material shall be limited to 45 days and the pile height of storage material shall be limited to 15 feet. Outdoor storage shall be set back a minimum of 25 feet from any property line or 50 feet from any property line abutting a residential district or use. Storage areas shall be screened from view, pursuant to Article 5.B, ACCESSORY AND TEMPORARY USES.
- f. Hours of Operation**
The hours of operation shall be limited to 9:00 a.m. to 5:00 p.m. Monday through Friday if within 1,000 feet of a residential zoning district.
- g. Supplemental Application Requirements Operation Functions**
The Zoning application shall include a written narrative and supporting documentation demonstrating acceptable industry design, configuration and operational standards,

Notes:
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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
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based on the type of materials processed and stored, including but not limited to the following:

1) **Site Plan**

The Site Plan shall illustrate A site plan illustrating how the operation functions including circulation routes; and their locations, square footage, height and location of buildings, and, the location and size of: chipper equipment, grinder, loading and processing areas, and storage piles.

2) **Waste Volume**

An explanation of the quantity of waste to be received, expressed in cubic yards per day or tons per day.

3) **Dust Control**

A plan to address how dust ~~control~~ generated from ~~in~~ traffic, storage and processing areas will be managed pursuant to 5.E.4.D.3, Dust and Particulate. ~~Dust control measures may include: additional setbacks, full or partial enclosure of chipper or grinder and watering or enclosing mulch piles.~~

4) **SWA Permit**

Prior to operation of the facility, the owner or operator shall obtain a SWA Permit.

h. **AR/RSA**

May be permitted in the AR/RSA District with a SA FLU designation, subject to a Class A conditional use approval. [Ord. 2005 – 002]

i. **Separation Distance**

The use shall be located a minimum of 500 feet from a parcel with a residential FLU designation, zoning district or use. The measurement shall be made by drawing a straight line from the property line to property line.

Reason for amendments in the Matrix: [Zoning] Delete the approval process for Chipping and Mulching in the AP District to indicate the most restrictive approval process in the Matrix. The approval process will be addressed in the supplemental standards.



2. Composting Facility

HISTORY: The Composting Facility use definition and supplemental were first referenced as part of the 1992 ULDC (Ord.1992-020). The definition was amended by Ord. 2003-067. The supplemental standards were amended by Ord. 1997-064, 1999-037 and 2003-067.

Reason for amendments: [Zoning]

1. Revise definition to clarify that a composting facility can compost clean wood in accordance with F.S. 62.709 (5). Delete reference to food as the use is not intended to address outdoor or commercial food waste composting and will not be permitted by SWA.
2. Introduce standard limiting Composting to an accessory use in the AP Zoning District when located on the same site as a Bona Fide Agricultural approval in order to limit the potential for a large-scale, regional facility.
3. Relocate and simplify Access standard for brevity.
4. Revise the following Outdoor Storage provisions to assist county agencies in enforcement and regulation:
 - Delete references to unprocessed under outdoor storage, as SWA and the Health Department do not differentiate between the two.
 - Add bollard requirements to delineate location of storage piles, maximum height and ground elevation.
 - Delete AP exceptions (including height and 45 day limitation) ensuring all zoning districts are regulated consistently.
5. Revise the site plan requirements as follows: Delete square footage, height and location of buildings as they are commonly associated with site plan elements and reviewed through the DRO or Building Permit Process.
6. Rename Supplemental Application Requirements to Operation Functions and revise standards related to site plan and justification statement to clarify requirements for submittal in addition to Article 2.A.1.G.3 and the Palm Beach County Zoning Technical Manual.
7. Establish SWA Permit standard to clarify Zoning approval is required prior to SWA permit review for this use.
8. Establish new separation distance requirement and clarify measurement is from property line to property line. The revision will also address potential adverse impacts to residential districts.

a. **Definition**

A facility designed and used for transforming ~~food~~, yard waste, clean wood and other organic material into soil or fertilizer through biological decomposition. This use does not include backyard-composting bins serving individual families.

b. **Approval Process - AP Zoning District**

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
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A Composting Facility Use shall only be allowed in the AP Zoning Districts on the site supporting a Bona Fide Agricultural use.

c. Access

Access shall be limited to arterial, collector, or local commercial streets not serving residential uses. Entrances shall be gated to prevent access from unauthorized persons. [Partially relocated from 4.B.5.C.2.c]

d.a. Lot Size

A minimum of five acres.

b. Setbacks

~~A minimum of 500 feet from residential districts and uses.~~ [Relocated to 4.B.5.C.2.f]

c. Access

~~An access road for collection vehicles shall be provided to the entrance of the facility. Access from a local street shall be prohibited. Access shall be restricted to specific entrances with gates that can be locked and that carry official notice that only authorized persons are allowed on the site. [Partially relocated to 4.B.5.C.2.b]~~

de. Outdoor Storage

- 1) Outdoor storage shall be set back a minimum of 25 feet from any property line or 50 feet from any property line abutting a parcel with a residential FLU designation, zoning district or use.
- 2) ~~Except in the AP district, o~~Outdoor storage of ~~unprocessed~~ material shall be limited to 45 days ~~and the pile height of storage material shall be limited to 15 feet. Outdoor storage shall be set back a minimum of 25 feet from any property line or 50 feet from any property line abutting a residential district or use. Storage areas shall be screened from view, pursuant to Article 5.B, ACCESSORY AND TEMPORARY USES.~~
- 3) The pile height of storage materials shall be limited to 12 feet.
- 4) The height of materials shall be tied to a finished grade benchmark delineated on site.
- 5) Bollards shall be provided to delineate pile locations.

ef. Hours of Operation

The hours of operation shall be limited to 9:00 a.m. to 5:00 p.m. Monday through Friday if within 1,000 feet of a residential zoning district.

g. Supplemental Application Requirements Operation Functions

The Zoning or Building application, whichever comes first, shall include a written narrative and supporting documentation demonstrating acceptable industry design, configuration and operational standards, based on the type of materials processed and stored, including but not limited to the following:

1) Site Plan

The plan shall illustrate A site plan illustrating how the operation functions, including circulation routes; and their locations, square footage, height and location of buildings, and, the location and size of: chipper equipment, grinder, loading and processing areas, and storage piles.

2) Waste Volume

An explanation of the quantity of waste to be received, expressed in cubic yards per day or tons per day.

3) Dust Control

A plan to address how dust control generated from in traffic, storage and processing areas will be managed pursuant to 5.E.4.D.3, Dust and Particulate. ~~Dust control measures may include: additional setbacks, full or partial enclosure of chipper or grinder and watering or enclosing mulch piles.~~

4) SWA Permit

Prior to operation of the facility, the owner or operator shall obtain a SWA Permit.

h. AR/RSA

May be permitted in the AR/RSA District with a SA FLU designation, subject to Class B conditional use approval. [Ord. 2005 – 002]

i. Separation Distance

The use shall be located a minimum of 500 feet from a parcel with a residential FLU designation, zoning district or use. The measurement shall be made by drawing a straight line from the property line to property line.

Reason for amendments in the Matrix: [Zoning]. Delete the approval process for Composting Facility in the AP Zoning District to indicate the most restrictive approval process in the Matrix. The approval process will be addressed in the supplemental standards.



Notes:

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

Part 2. New ULDC Art. 4.B.7, Utility Uses, is hereby established as follows:

Reason for amendments: [Zoning]
1. Formerly Utilities and Excavation uses, this classification was split to address Utility uses separately from Excavation Uses and Commercial Communication Towers. For consistency with the Comprehensive Plan that calls out separately Excavation Uses and Communication Towers complexity requires a separate use matrix for ease of use. Standards for these use classifications are already done in the ULDC.

CHAPTER B USE CLASSIFICATION

Section 7 Utility Uses

A. Utility Use Matrix

Use Matrix goes here. It has been provided as a separate handout for ease of use.

B. General Utility Standards
Space reserved for future use.

C. Definitions and Supplementary Use Standards for Specific Uses

1. Electric Distribution Substation

Reason for amendments: [Zoning]
1. Relocate standards for Electric Distribution Substations and establish as a separate and distinct use from Minor Utility, to avoid confusion related to F.S. 163.3208, which specifically regulates substations less than 69 kilovolts in size and is not applicable to other Minor Utility uses.
2. Correct kilowatts to kilovolts to be consistent with industry and statutory terminology regarding maximum capacity of distribution lines converted by an Electric Distribution Substation.

a. Definition
Defined in accordance with F.S. 163.3208, as an electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size. [Ord. 2007-013] [Partially Relocated from Art. 4.B.7.11, Minor Utilities]

b. Landscaping
1) Landscape Buffering – General
Pursuant to F.S. 163.3208 as may be amended from time to time, required perimeter buffers or landscape material located under overhead lines to the substation equipment shall not exceed 14 feet of height. [Ord. 2007-013] [Relocated from Art. 4.B.7.11, Minor Utilities]

2) Landscape Buffering in Residential Areas
Pursuant to F.S. 163.3208 as may be amended from time to time, where located in and adjacent to parcels with residential uses or a FLU designation, landscape buffering shall be upgraded as follows: [Ord. 2007-013] [Relocated from Art. 4.B.7.11, Minor Utilities]

a) An eight-foot wall or fence shall be installed around the substation where equipment or structures are setback less than 50 feet. [Ord. 2007-013] [Partially Relocated from Art. 4.B.7.11, Minor Utilities]
b) An open green space shall be maintained between required perimeter buffers and security fencing, equipment or structures, by installing native landscaping, including trees and shrub material, around the substation where equipment or structures are setback between 50 and 100 feet. Required green spaces shall be planted with double the amount of interior trees and shrubs required by Table 7.C.3, Minimum Tier Requirements, in addition to normal interior landscaping requirements. [Ord. 2007-013] [Relocated from Art. 4.B.7.11, Minor Utilities]

Reason for amendments in the Matrix: [Zoning] Relocate standards for Electric Distribution Substations and establish as a separate and distinct use from Minor Utility. The approval process for standard zoning districts remains unchanged from Minor Utility. However, in planned development zoning districts the approval has been changed to DRO Approval to ensure the use is site planned. The approval process is consistent with F.S. 163.3208, Substation Approval Process which states “New distribution electric substations shall be a permitted use.

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

2. Electric Power Facility

HISTORY: The Electric Power Facility use definition and supplemental standards first referenced as part of the 1992 ULDC (Ord.1992-020). The definition was amended by Ord. 2003-067, 2006-004 and 2009-040. The supplemental standards were amended by Ord. 1999-037, 2003-067, 2006-004, 2007-001 and 2011-001.
Reason for amendments: [Zoning]
1. Clarify setbacks from an electric power facility pertains to residential and civic use, zoning districts or FLU designation to be consistent with standardized formatting protocol.
2. Clarify reference to poles under setbacks pertains to electric power poles to be consistent with other electric generating use terminology.
3. Relocate standard related to barbed wire as all regulations have been consolidated under dangerous materials in Article 5, Supplementary Standards. Article 5 will be amended to include this use as one that allows barbed wire.
4. Delete reference to Alternative Landscape Plan (ALP) provisions as Table 7.B.3.A states what standards can be modified through the use of an ALP, which includes Article 7.F.9, Incompatibility Buffer.

a. Definition

Any electric generating facility that uses any process or fuel, and includes any associated facility that directly supports the operation of the electrical power facility. [Ord. 2006-004] [Ord. 2009-040] [Ord. 2010-005]

ab. Setbacks

- 1) An electric power facility, ~~for electrical generation only~~, shall not be located within 1,000 feet of a parcel with a residential zoning district-FLU designation, zoning district or use.
- 2) Principal uses and structures (excludes electric poles) shall be setback a minimum of 500 feet from all property lines.
- 3) Accessory uses and structures (excluding electric poles) shall be setback a minimum of 50 feet from all property lines.

b. Screening and Perimeter Buffers

~~A Type III incompatibility buffer shall be required when the subject site is adjacent to or visible from any street or parcels with a conservation (when open to the public), commercial or residential FLU or use. Palms may not be substituted for required canopy trees. This buffer may be modified in accordance with Art. 7.B.3, Alternative Landscape Plan (ALP). [Ord. 2006-004] [Relocated to below Art.~~

c. Approval Process - AP Zoning District

Biomass Electric Power Facilities may be permitted subject to a Class A Conditional Use approval.

e.1) Ash disposal and wood recycling facilities - AP Zoning District

Ash disposal and wood recycling facilities shall be permitted on sites in the AP district as an accessory use to biomass electric power facilities. The primary use for the site shall be consistent with the underlying zoning designation. [Ord. 2007-001]

- 1a) Ash disposal facilities shall not exceed 220 feet in height measured from the existing grade at the base of the facility. [Ord. 2007-001]
- 2b) Ash disposal facilities shall be used only for the disposal of ash produced onsite by the biomass electric power facility. [Ord. 2007-001]
- 3c) Ash disposal facilities shall not be constructed until the plans for its construction and operation have been reviewed and approved by all applicable governmental agencies. [Ord. 2007-001]
- 4d) Ash disposal facilities shall be constructed as a Class I landfill in compliance with the applicable standards adopted by the Florida Department of Environmental Protection and set forth in Section 403.707, Florida Statutes and Chapter 62-701, F.A.C., for Class I landfills. [Ord. 2007-001]

bd. Screening and Perimeter Buffers

~~A Type 3 incompatibility buffer shall be required when the subject site is adjacent to or visible from any street or parcels with a conservation (when open to the public), commercial or residential FLU designation, use or zoning district. Palms may not be substituted for required canopy trees. [Ord. 2006-004] [Partially Relocated from Art. 4.B.7.c.XX, above]~~

de. Collocated Use - Electric Transmission Facility

An ~~E~~electric ~~T~~ransmission ~~F~~acility collocated with a new request or DOA for an ~~E~~electric ~~generation~~ ~~Power~~ ~~F~~acility may be reviewed and approved as one application. ~~The transmission facility and~~ shall comply with the requirements of Art. ~~4.B.1.A.44-2 4.B.7.C.7~~, Electric Transmission Facility. [Ord. 2006-004]

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

~~e. Barbed Wire~~

~~Barbed wire may be installed pursuant to Art. 5.B.1.A.2.c, Dangerous Materials. [Ord. 2011-001][Consolidated with Art. 5.B.1.A.2.e.1, Dangerous Materials]~~

Reason for amendments in the Matrix:[Zoning] Change the Approval Process from Class A Conditional Use to Prohibited in the AP Zoning District to indicate the most restrictive approval process in the Matrix. Electric Power Facility in the AP Zoning District shall be limited to Biomass Electric Power Facilities.

3. Electric Transmission Facility

HISTORY: The Electric Transmission Facility use definition and supplemental standards were first referenced as part of Ord. 2006-004. The supplemental standards were amended by Ord. 2011-001.

Reason for amendments: [Zoning]

1. Revise Definition to delete reference to Electric Distribution Substation, which is being established as a separate use, and the Maximum Gross Floor Area (GFA) as the square footage limitation was added in error and does not apply to Electric Distribution Substations.
2. Relocate standard related to barbed wire as all regulations have been consolidated under dangerous materials in Article 5, Supplementary Standards. Article 5 will be amended to include this use as one that allows barbed wire.
3. Delete reference to ALP provisions as Table 7.B.3.A states what standards can be modified through the use of an ALP, which includes Art 7.F.9, Incompatibility Buffer.

a. Definition

~~Mechanical equipment~~ A facility associated with the transfer of electrical energy from Electric Power Facilities to Electric Distribution Substations transmission networks, including transmission voltage facilities or switching substations, ~~and electrical distribution substations that exceed the standards of Art 4.B.1.A.134.a.1), Residential Districts and 2) Non-residential Districts.~~ [Ord. 2006-004]

ab. Setbacks

Notwithstanding the requirements of Table 3.D.1.A, Property Development Regulations, setbacks for electric transmission facilities, excluding transmission lines, shall be as follows: [Ord. 2006-004]

~~1) Buildings~~

~~1) Buildings used for electric transmission facilities shall be setback a minimum of 50 feet from all property lines. [Ord. 2006-004]~~

~~2) Mechanical Equipment and Related Structures~~

~~2) Setbacks for mechanical equipment, related structures and fencing shall be a minimum of 75 feet, or a minimum of 150 feet when adjacent to or visible from a street or parcels with a conservation (when open to the public), commercial or residential FLU designation, or use or zoning district. Setbacks may be reduced to 100 feet, if the incompatibility buffer is increased to 50 feet in width and the number of required trees are doubled. Setbacks may also be reduced to 75 feet when adjacent to commercial properties, or when separated from adjacent properties by a R-O-W 100 feet in width or greater, if the applicant can demonstrate that structures will not be visible from residential or public use areas. [Ord. 2006-004]~~

~~3) Maximum Height~~

~~3) One additional foot of setback shall be provided in addition to the minimum setback for each one foot in height, or fraction thereof, over 35 feet. [Ord. 2006-004]~~

bc. Screening and Perimeter Buffers Landscaping

A Type ~~III~~3 incompatibility buffer shall be required when the subject site is adjacent to or visible from any street or parcels with a conservation (when open to the public), commercial or residential FLU designation, zoning district or use. Palms shall not be substituted for required canopy trees. ~~This buffer may be modified in accordance with Art. 7.B.3, Alternative Landscape Plan (ALP).~~ [Ord. 2006-004]

~~c. Barbed Wire~~

~~Barbed wire may be installed pursuant to Art. 5.B.1.A.2.c, Dangerous Materials. [Ord. 2011-001][Consolidated with Art. 5.B.1.A.2.e.1, Dangerous Materials]~~

Reason for amendments in the Matrix: [Zoning] No change to the approval process is being proposed.

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

4. Sanitary Landfill or Incinerator

HISTORY: The Sanitary Landfill or Incinerator use definition and supplemental standards were first referenced as part of Ord. 1973-002. The use was amended by Ord. 1977-008 and 1989-005. The definition and supplemental standards were amended by Ord. 1992-020 and 2003-067.

Reasons for amendments: [Zoning]

1. Revise definition to be consistent with the definition of landfill found in F.S. 403.703 Landfills are no longer referred to as "sanitary" landfills. The revision of the definition also includes the addition of "incineration". Incineration is another process of treating solid waste.
2. Delete the Public Ownership (PO) Zoning District standard. The Use Matrix identifies the zoning district the use is allowed and is redundant.
3. Delete the Accessory Incinerator standard to Hospital or Medical Center use. Hospital or Medical Center already addresses incinerator associated to a medical facility.
4. Establish SWA Permit standard to clarify Zoning approval is required prior to SWA permit review for this use.

a. **Definition**

~~A facility employing an engineered method of disposing of solid waste in a manner which minimizes environmental hazards by spreading solid waste in layers, providing a sand clean fill or similar cover.~~

A facility for the disposal or incineration of solid waste for which a permit is required by the Florida Department of Environmental Protection, which receives solid waste for disposal in or upon the land. The term does not include a land-spreading site, injection well or surface impoundment.

a. ~~PO District~~

~~A sanitary landfill or incinerator shall only be located in the PO district.~~

b. ~~Accessory Incinerator~~

~~An incinerator may be an accessory use to a hospital.~~

b. **SWA Permit**

Prior to operation of the facility, the owner or operator shall obtain a SWA Permit.

Reason for amendments in the Matrix: [Zoning] No change to the approval process is being proposed.

5. Utility, Minor Utility

HISTORY: The Minor Utility use definition and supplemental standards were first referenced as part of the 1992 ULDC (Ord.1992-020). The definition was amended by Ord. 2003-067, 2006-004 and 2007-013. The supplemental standards were amended by Ord. 2000-015, 2001-001, 2003-067, 2004-040, 2007-013, 2011-001 and 2012-027.

Reason for amendments: [Zoning]

1. Revise the definition to clarify a Minor Utility is a facility (whether manner or unmanned) and differentiate between mechanical equipment that can be classified as an accessory structure referenced in Article 5, Accessory Uses and Structures.
2. Revise the Floor Area standards and add "structures" for consistency with the definition.
3. Delete the Buffer standard. Screening, buffering and setbacks are addressed in other parts of the Code. Screening is subject to Article 5.B.1.A.19, Mechanical Equipment; buffering is subject to Article 7 and setbacks are subject to Article 3.D.1.A, Property Development Regulations (PDRs).
4. Relocate Electric Distribution Substations from Minor Utility and create new use to avoid confusion related to F.S. 163.3208 which specifically regulates substations less than 69 kilovolts in size.
5. Relocate standard related to barbed wire as all regulations have been consolidated under dangerous materials in Article 5, Supplementary Standards. Article 5 will be amended to include this use as one that allows barbed wire.

a. **Definition**

~~Mechanical equipment~~ An above-ground facility associated with utility distribution, collection, or transmission networks, required by their nature to be relatively dispersed throughout their service area other than electric generation and transmission facilities. Typical uses include gas and water regulators, ~~electrical distribution substations~~, chlorine injection and potable water booster pump stations; water reclamation treatment, storage and distribution facilities, membrane bioreactor plants, sewage lift stations, telephone exchange buildings, and communication substations.[Ord. 2006-004] [Ord. 2007-013]

a.b. **Floor Area**

1) Residential Zoning Districts [Ord. 2004-040]

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

A maximum of 3,000 square feet of gross enclosed floor area of buildings. Square footage calculations shall not include tanks and unoccupied accessory facilities and structures. [Ord. 2004-040] [Ord. 2007-013]

2) **Non-residential Zoning Districts**

A maximum of 10,000 square feet of gross enclosed floor area of buildings. Square footage calculations shall not include tanks and unoccupied accessory facilities and structures. [Ord. 2004-040] [Ord. 2007-013]

3) A minor utility exceeding either standard above may be approved as a Class A Conditional Use ~~or a Requested Use~~. [Ord. 2004-040]

b. Buffer

~~A minor utility shall be located and buffered to ensure compatibility with surrounding land uses. Increased setbacks, screening, and buffering around the utility may be required to ensure compatibility.~~[Ord. 2004-040]

c. Lift Station

1) **New Subdivisions**

Facilities located in new subdivisions shall be subject to DRO approval concurrent with the subdivision approval.

2) **Streets**

Facilities located within streets or utility easements shall not be subject to DRO approval.

d. Electric Distribution Substations

~~For the purposes of this section, shall be defined in accordance with F.S. 163.3208, as an electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one of more distribution lines less than 69 kilowatts in size. An electrical distribution substation shall comply with the following:~~ [Ord. 2007-013] [Partially Relocated to Art. 4.B.1.XX, Electric Distribution Substation]

~~1) Exemptions~~

~~Electrical substations are exempt from the floor area limitations.~~ [Ord. 2007-013]

~~2) Landscape Buffering in Residential Areas~~

~~Where located in and adjacent to parcels with residential uses or a FLU designation landscape buffering shall be upgraded as follows:~~ [Ord. 2007-013] [Relocated to Art. 4.B.1.XX, Electric Distribution Substation]

~~a) An eight-foot wall or fence shall be installed around the substation where equipment or structures are setback less than 50 feet. Landscaping materials shall be native.~~ [Ord. 2007-013] [Relocated to Art. 4.B.1.XX, Electric Distribution Substation]

~~b) An open green space shall be maintained between required perimeter buffers and security fencing, equipment or structures, by installing native landscaping, including trees and shrub material, around the substation where equipment or structures are setback between 50 and 100 feet. Required green spaces shall be planted with double the amount of interior trees and shrubs required by Table 7.C.3, Minimum Tier Requirements, in addition to normal interior landscaping requirements.~~ [Ord. 2007-013] [Relocated to Art. 4.B.1.XX, Electric Distribution Substation]

~~3) Landscape Buffering - General~~

~~Required perimeter buffers or landscape material located under overhead lines to the substation equipment shall not exceed 14 feet of height.~~ [Ord. 2007-013] [Relocated to Art. 4.B.1.XX, Electric Distribution Substation]

ed. States of Emergency

The PZ&B Executive Director may waive the review timeframes in the event of a declared state of emergency. [Ord. 2007-013] [Ord. 2012-027]

f. Barbed Wire

~~Barbed wire may be installed pursuant to Art. 5.B.1.A.2.c, Dangerous Materials.~~ [Ord. 2014-001] [Consolidated with Art. 5.B.1.A.2.e.1, Dangerous Materials]

Reason for amendments in the Matrix: [Zoning] Add to MUPD, Mixed Use Planned Development (MXPD) Zoning District with Economic Development Center (EDC) FLU designation for consistency with the IL Zoning District.

Notes:

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

6. Renewable Energy ~~Solar Facility~~, ~~Solar~~

HISTORY: The Solar Renewable Energy Facility use definition and supplemental standards were first referenced as part of Ord. 2009-040. The supplemental standards were amended by Ord. 2010-022.

Reason for amendments: [Zoning]

1. Delete repetitive language under minimum setback requirements as acreages are referenced in titles.
2. Change reference to side corner setback to side street setback in accordance with current terminology.
3. Revise Perimeter Buffers and Interior Tree Requirements standard to clarify a 6 foot hedge is required for Right of Way Right-Of-Way (R-O-W) and compatibility buffers in addition to the required landscaping outlined in Article 7.F, Perimeter Buffer Landscape Requirements.
4. Delete reference to Substation as Article 4 allows for collocated uses and the standard does not need to be repeated under the individual use.
5. Delete reference to ALP provisions as Table 7.B.3.A states what standards can be modified through the use of an ALP, which includes Art 7.F.9, Incompatibility Buffer.

a. Definition

A facility that uses photovoltaic, thermal or other systems with a principal use of producing electric or thermal power from the sun. [Ord. 2009-040]

ba. Minimum Lot Size

Lots shall comply with the minimum lot dimension requirements pursuant to Table 3.D.1.A, Property Development Regulations, or the applicable PDD requirements. [Ord. 2009-040]

cb. Minimum Setbacks Requirements

Accessory electric poles, distribution and transmission lines shall be exempt from the minimum setback requirements indicated below: [Ord. 2009-040]

1) Lots 50 Acres or Greater

~~Facilities located on lots 50 acres or greater in sizes~~ Setbacks shall be ~~setback~~ a minimum of 25 feet from the side and rear property lines. The facility shall comply with the minimum front and side ~~corner street~~ setbacks of the applicable zoning district. [Ord. 2009-040]

2) Lots Less than 50 Acres

~~Facilities located on lots less than 50 acres in sizes~~ Setbacks shall be ~~setback~~ a minimum of 15 feet from the side and rear property lines. The facility shall comply with the minimum front and side ~~corner street setbacks~~ of the applicable zoning district. [Ord. 2009-040]

3) Lots Adjacent to Existing Residential Uses

~~Facilities located on lots adjacent to existing residential uses~~ Setbacks shall be ~~setback~~ a minimum of 35 feet or the district setback, whichever is greater, along the affected property line. [Ord. 2009-040]

4) Additional Setback

One additional foot of setback shall be required in addition to the minimum setback indicated above for each one foot of height, or fraction thereof, over 20 feet. [Ord. 2009-040]

de. Perimeter Buffers and Interior Tree Requirements

1) A six foot high hedge shall be incorporated into the required compatibility or ROW buffer ~~required in addition to the requirements pursuant to of~~ Article 7.F, PERIMETER BUFFER LANDSCAPE REQUIREMENTS. Palms may be substituted for 50 percent of the required canopy trees. ~~This buffer may be modified pursuant to Article 7.B.3, ALTERNATIVE LANDSCAPE PLAN (ALP).~~ [Ord. 2009-040]

2) These facilities shall be exempt from interior landscape requirements for the developable area pursuant to Table 7.C.3, Minimum Tier Requirements. [Ord. 2009-040]

d. Substation

~~Substations associated with the facility shall be subject to the requirements of Article 4.B.1.A.134, Utility Minor.~~ [Ord. 2009-040]

e. Collocation with Existing Electric Power Facilities

Solar facilities located on a site with an existing electric power facility shall be approved pursuant to the approval process indicated in the appropriate use matrix, and shall not be subject to a Development Order Amendment pursuant to Article 2.B.2.H, Development Order Amendment. [Ord. 2009-040] [Ord. 2010-022]

Reason for amendments in the Matrix: [Zoning] No change to the approval process is being proposed.



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7. Renewable Energy ~~Wind Facility~~, ~~Wind~~

HISTORY: The Wind Renewable Energy Facility use definition and supplemental were first referenced as part of Ord. 2010-005 and amended by Ord. 2011-016.

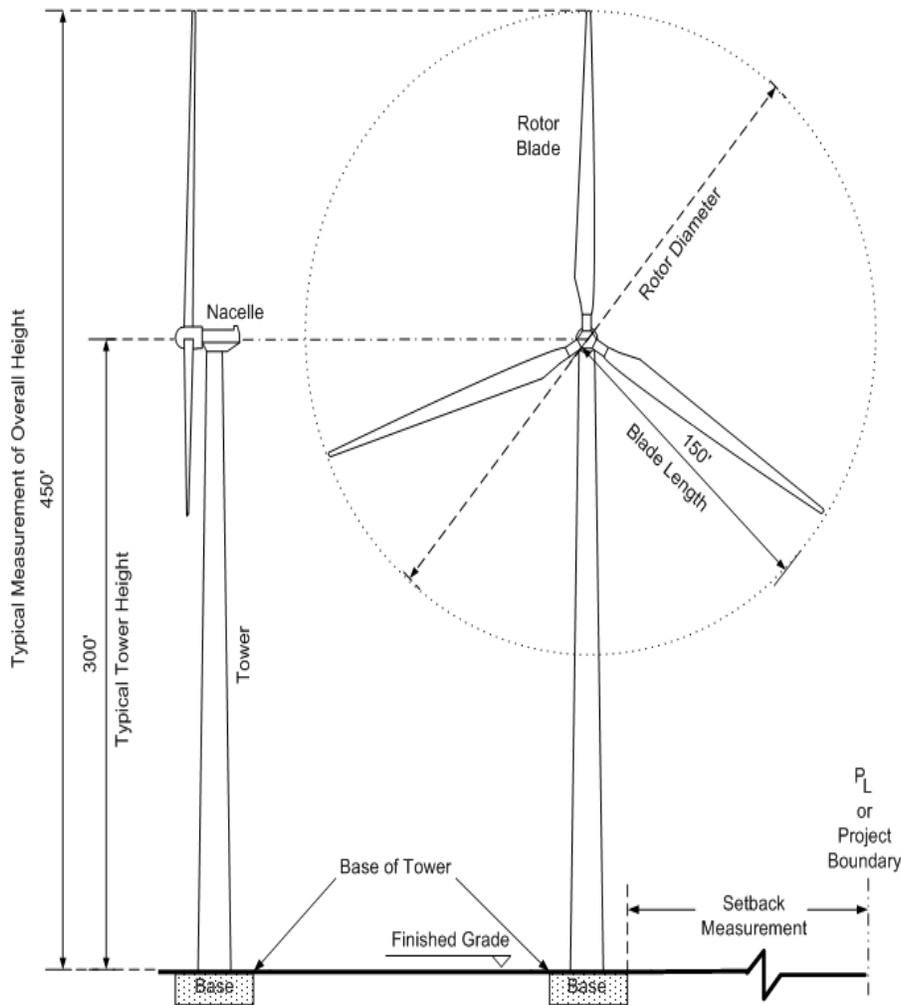
Reason for amendments: [Zoning]

1. Delete Environmental Permitting standard pursuant to F.S. 163.3164 that reads as follows: "The County may not require a condition of processing or issuing a development permit, that an applicant obtain a permit or approval from any state or federal agency, unless the agency has issued a final agency action that denies the federal or state permit before the county action on the local development permit".
2. Delete reference to Substation as Article 4 allows for collocated uses and the standard does not need to be repeated under individual use.
3. Delete reference to ALP provisions as Table 7.B.3.A states what standards can be modified through the use of an ALP, which includes Art 7.F.9, Incompatibility Buffer.

a. **Definition**

A facility that uses one or more wind turbines, Meteorological (MET) Towers or other systems with a principal use of producing electric or mechanical power from the wind.
[Ord. 2010-005] [Ord. 2011-016]

Figure: 4.B.1.A – Typical Renewable Energy Wind Turbine



[Ord. 2010-005] [Ord. 2011-016]

bc. **Environmental Permitting – Letters of Engagement**

The applicant shall provide a letter of engagement from all applicable environmental permitting agencies, including but not limited to: the Florida Fish and Wildlife Conservation Commission, US Fish and Wildlife Service, Florida Department of Environmental Protection, or other applicable regulatory agency. Letters of engagement, or similar documentation, shall indicate that the proposed facility is under review for applicable permitting or siting requirements for endangered, threatened or species of special concern, migratory birds or bats, natural ecosystem or wetlands, or other local wildlife. The documentation shall be submitted to the Zoning Division, with the Zoning

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application. The Letter of Engagement shall include, at a minimum: [Ord. 2010-005]
[Ord. 2011-016]

- 1) Identify organization as Federal, State or Local; [Ord. 2011-016]
- 2) Key individuals involved in review; [Ord. 2011-016]
- 3) Role in review process (i.e. studies, review or permitting); and, [Ord. 2011-016]
- 4) Identify any permits or approvals required, critical dates, input in review process and possible conditions of approval, where applicable. [Ord. 2011-016]

~~bc. Environmental Permitting – Final Site Plan Approval~~

~~The applicant shall provide proof of all State and Federal permitting and other applicable final approvals needed for siting and operation prior to Final Site Plan approval. [Ord. 2011-016]~~

~~cd. Minimum Lot Size~~

Lots shall comply with the minimum lot dimension requirements pursuant to Table 3.D.1.A, Property Development Regulations, or the applicable PDD requirements. Nonconforming legal lots of record may be included within the boundaries of a Renewable Energy ~~Wind~~ Facility (~~Wind~~) if the overall project boundaries meet the minimum standards for the district. [Ord. 2010-005] [Ord. 2011-016]

~~de. Minimum Setback or Separation Requirements~~

Accessory electric poles, distribution and transmission lines shall be exempt from the minimum setback requirements indicated below. [Ord. 2010-005]

~~1) Measurement of Height~~

~~1) The measurement of height shall be in accordance with Art. 4.C.4.B, Measurement of Height (related to Commercial Communication Towers), except that for Wind Turbines, the height shall be measured to the top of the turbine blade. [Ord. 2011-016]~~

~~2) Minimum Setbacks or Separations~~

~~1) Facilities shall comply with the minimum setback requirements of the applicable Zoning district unless stated otherwise in the following Table. [Ord. 2010-005] [Ord. 2011-016]~~

Table 4.B.17.AC, Minimum Renewable Energy Wind Energy (~~Wind~~) Facility Setbacks or Separations

Structures	Minimum Separation (1) (2)			Minimum Setback (1)		
	Occupied Buildings within Project Boundary	Habitable Buildings within Project Boundary	Occupied or Habitable Buildings Outside of Project Boundary	Project Boundary		Public R-O-W
				Non-residential FLU	Residential or Conservation FLU	
Wind Turbines, MET Towers or other similar Wind Energy Systems	1.1 x Height	2.5 x Height	2.5 x Height	1.5 x Height	2.0 x Height	2.5 x Height
Accessory or Collocated Buildings or Structures	Apply district or accessory use PDRs as applicable.					
[Ord. 2011-016]						
Notes:						
1. Setback or separation from Wind Turbines, MET Towers or other similar structures shall be measured from the base as depicted in Figure 1.C.4.E, Typical Example of Measurement of Separation from Structure.						
2. Definitions for Habitable and Occupied shall be in accordance with the Florida Building Code, as may be amended.						

~~32) Type II Variance for Setbacks or Separations~~

Requests for Type II Variances from the Setback or Separation requirements listed above shall be permitted in accordance with Art. 2, Development Review Procedures, and the following: [Ord. 2011-016]

- a) The minimum proposed setback or separation is not less than 1.1 times the height of the structure; [Ord. 2011-016]
- b) The applicant submits a study demonstrating that shadow flicker caused by the proposed Renewable Wind Energy Facility will not affect any occupied or habitable building or outdoor recreation area. Some shadow flicker not to exceed 30 hours annually may be approved as part of the Variance upon demonstration that the frequency range is not adverse to any segments of the public. The study shall be prepared by a licensed Engineer, Surveyor and Mapper, Architect, Landscape Architect, or other similar professional, including scientists specializing in Renewable Wind Energy technology. [Ord. 2011-016]

~~4.3) Setback within Multi-Parcel Wind Facilities in AP~~

Except for setbacks from habitable and occupied buildings as set forth in Table 4.B.1.A., Wind Turbines, MET Towers or other similar wind energy systems on parcels with an AP FLU designation and AP Zoning District, setbacks shall be measured from the Project Boundary, not from any lot lines located within the Project Boundary. [Ord. 2011-016]

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1 4) *The measurement of height shall be in accordance with Art. 4.C.4.B, Measurement of*
2 *Height (related to Commercial Communication Towers), except that for Wind*
3 *Turbines, the height shall be measured to the top of the turbine blade. [Ord. 2011-*
4 *016] [Relocated from Art. 4.B.1.A.106-2.d, Measurement of Height above]*

5 **e. Perimeter Buffers and Interior Tree Requirements**

6 1) A Type I incompatibility buffer shall be required when the subject site is adjacent to or
7 visible from any street or parcels with a conservation (when open to the public),
8 commercial, public and civic, or residential FLU designation, zoning district or use. In
9 addition, a Type II incompatibility buffer shall be required around the perimeter of all
10 ground mounted equipment or accessory buildings. Palms may be substituted for 50
11 percent of the required canopy trees. ~~These buffers may be modified pursuant to~~
12 ~~Article 7.B.3, Alternative Landscape Plan. [Ord. 2010-005]~~

13 2) Wind Turbines or MET Towers located on parcels with an AP FLU designation and
14 Zoning district shall be exempt from the landscaping requirements above. [Ord.
15 2011-016]

16 3) These facilities shall be exempt from interior landscape requirements for the
17 developable area pursuant to Table 7.C.3, Minimum Tier Requirements. [Ord. 2010-
18 005]

19 **f. Substation**

20 ~~Substations associated with the facility shall be subject to the requirements of Article~~
21 ~~4.1.A.134, Utility Minor. [Ord. 2010-005]~~

22 **fg. Collocation with Existing Electric Power Facilities**

23 Wind facilities located on a site with an existing electric power facility shall be approved
24 pursuant to the approval process indicated in the appropriate use matrix, and shall not be
25 subject to a legislative development order amendment, pursuant to Article 2.B.2.H,
26 Development Order Amendment. [Ord. 2010-005]

27 **gh. Removal**

28 A Renewable ~~Energy~~ Wind ~~Energy~~ project ("Project"), when deemed "abandoned", shall
29 be removed in accordance with the provisions of this subsection (h). For the purposes of
30 this section, the term Project shall also include individual Wind Turbines or MET Towers
31 located within a larger Wind Energy Facility. The Project shall be deemed "abandoned"
32 when the Project is completely unable to generate electricity, whether through continued
33 operation or repowering, and where the owner of the Project ("Project Owner") is not
34 engaged in any effort to remedy the condition that gave rise to the complete inability to
35 generate electricity, or if the project fails to generate electricity for a period of three years
36 regardless of the efforts of the Project Owner. If a Project is deemed "abandoned", the
37 Project Owner shall commence removal of the Project. The arrangements regarding
38 removal of the Project are to be set forth in contracts between the applicable landowners
39 and the Project Owner, which such arrangements shall: [Ord. 2011-016]

40 1) Require the removal of the turbine towers and foundations up to a depth of 36 inches
41 below grade; [Ord. 2011-016]

42 2) Establish a time frame up to 24 months, subject to adjustment due to force majeure
43 events, to complete the removal; and [Ord. 2011-016]

44 3) Provide surety, in a form subject to approval of the County Attorney, for removal to
45 the applicable landowner (as primary beneficiary) and to the County (as secondary
46 beneficiary in the event the landowner fails to timely enforce its rights under the
47 surety instrument). The amount of the surety shall be calculated by an independent,
48 Florida certified professional engineer immediately prior to the date it is required to be
49 provided, as set forth in this clause (3), and shall be equal to the cost of removing the
50 Project. The surety amount shall be recalculated every ~~five~~ years thereafter. The
51 surety, which shall be in the form of a single instrument, shall be provided to the
52 applicable landowner and the County upon the earlier to occur of: [Ord. 2011-016]

53 (a) The date which is ~~10~~ten years prior to the end of the lease term between the
54 applicable landowner and the Project Owner, as such term may be extended
55 from time to time, or [Ord. 2011-016]

56 (b) The 90th day following the date the Project is deemed "abandoned". [Ord. 2011-
57 016]

58 **ih. MET Tower Approval Process Exceptions**

59 Permanent MET Towers shall be considered a permitted accessory structure to a
60 Renewable Energy ~~Wind~~ Facility ~~(Wind)~~. [Ord. 2011-016]

61 **1) DRO Approval**

62 A temporary MET Tower located on a parcel with an AP FLU ~~D~~designation and
63 Zoning ~~D~~district, to be erected for a period of not more than three years, may be
64 approved by the DRO. [Ord. 2011-016]

65 **2) Permitted by Right**

66 A temporary MET Tower located on a parcel with an AP FLU ~~D~~designation and
67 Zoning ~~D~~district, to be erected for a period of not more than three years, where
68 located ~~one~~a mile or more from a public R-O-W, or parcels with a conservation (when

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open to the public), commercial, public, civic, or residential use, FLU designation or zoning district shall be permitted by right. [Ord. 2011-016]

ii. Microwave Path Analysis

At time of submittal for final DRO approval, a professionally prepared microwave path analysis shall be submitted for review and approval by FDO. Prior to final DRO approval, the site plan shall clearly depict any area(s) of the site that is required by that analysis to remain free and clear of encroachments in order to preclude interference with County microwave communication systems. [Ord. 2011-016]

kj. Aircraft Hazard

To ensure the safety of low flying aircraft, any application ~~for a Wind Facility~~ shall demonstrate compliance with 14 CFR Part 77.9 and notification requirements to the Administrator of the FAA. In the event there are no applicable FAA requirements for safety markings of Wind Turbines or MET Towers the following safety marking requirements shall be applied: [Ord. 2011-016]

- 1) Paint will be applied to the top 1/3 of the MET Tower in alternating bands of international orange and white. [Ord. 2011-016]
- 2) Three orange guy wire marker spheres will be installed on each of the outer guy wires of the MET Tower. [Ord. 2011-016]
- 3) 10 foot yellow florescent sleeves will be attached on either side of each marker sphere. [Ord. 2011-016]
- 4) A low-intensity flashing red light will be mounted at the top of the MET Tower. [Ord. 2011-016]
- 5) 10 foot yellow florescent sleeves will be attached to each guy wire at the anchor points of the MET Tower. [Ord. 2011-016]

lk. Color

Towers, turbines and blades shall be painted non-reflective white or grey, or other non-reflective unobtrusive color and shall be consistent with any information provided at time of DO approval. Change in color shall be permitted subject to DRO approval, where required by regulatory agency permitting or other similar approvals. Signage, equipment or project logo or labeling shall be prohibited on Wind Turbines, MET Towers or other similar wind energy systems. [Ord. 2011-016]

Reason for amendments in the Matrix: [Zoning] No change to the approval process is being proposed.

8. Solid Waste Transfer Station

HISTORY: The Solid Waste Transfer Station use definition and supplemental standards were first referenced as part of Ord. 1973-002. The use was amended by Ord. 1977-008, 1990-021 and 1991-015. The definition was amended by Ord. 1992-020 and 2003-067. The supplemental standards were amended by Ord. 1992-020, 2003-067, 2011-001, and 2012-027.

Reason for : [Zoning]

1. Revise the definition to:
 - Add yard waste to the definition to clarify stand alone yard waste collection facilities shall be approved as a Solid Waste Transfer Station.
 - Clarify temporary storage of solid waste is permitted on site.
2. Revise setback requirement applicable to structures, ramps, parking, etc and all property lines to help mitigate any potential adverse impacts caused by the use.
3. Relocate and consolidate screening requirements for outdoor storage in Article 5.B, ACCESSORY AND TEMPORARY USES.
4. Revise SWA Permit standard to clarify Zoning approval is required prior to SWA permit review.
5. Relocate standard related to barbed wire as all regulations have been consolidated under dangerous materials in Article 5, Supplementary Standards. Article 5 will be amended to include this use as one that allows barbed wire.

a. Definition

A facility where solid waste or yard waste from smaller vehicles is transferred into larger vehicles before being shipped or transported to a solid waste processing or disposal facility. Solid waste or yard waste may be sorted or temporarily stored but not processed at a transfer station.

ab. Location Frontage

The facility shall front on and have access from an arterial or collector street.

bc. Setbacks

All portions of a transfer station, including structures, ramps, parking and on site circulation areas, shall be setback a minimum of ~~25~~ 50 feet or the district setback.

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whichever is greater, from all property lines, lakes, canals, water management tracts, retention/detention areas, drainage swales, and other water bodies.

~~c. Screening~~

~~All storage areas shall be screened from view by walls, fences or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from streets or adjacent lots. In no event shall the height of solid waste stored outdoors exceed 25 feet.~~ **[Relocated to 5.B.1.A.3, Outdoor Storage and Activities]**

d. Buffer

A minimum width of 50 ~~foot~~ **feet** incompatibility buffer shall be provided adjacent to an existing residential use, district or FLU designation: Required landscaping not visible from adjacent lots or streets may be waived through a Type I Waiver. **[Ord. 2012-027]**

e. Storage Areas

All solid waste stored outdoors shall be in leak-proof containers or located on a paved surface designed to capture all run-off. Run-off shall be treated in a manner that is in conformance with local, State and Federal regulations.

f. ~~Supplemental Application Requirements~~ Operation Functions

1) Access

A graphic and written analysis of access routes to the site.

2) Type

An explanation of the type of facility requested including a description of the materials to be handled, methods of operation, handling procedures, whether sorting will occur, and runoff treatment plans.

3) Waste

The quantity of waste to be received, expressed in cubic yards per day or tons per day.

4) Hours of Operation

A statement specifying the hours of operation.

5) SWA Permit

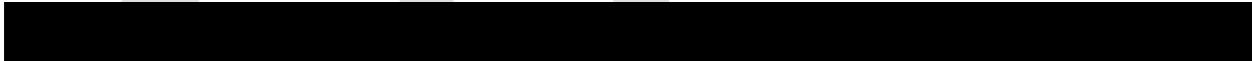
~~Prior to approval by the DRO, the applicant shall obtain a permit from, and post a bond with the SWA.~~

Prior to operation of the facility, the owner or operator shall obtain a SWA Permit.

~~g. Barbed Wire~~

~~Barbed wire may be installed pursuant to Art. 5.B.1.A.2.c, Dangerous Materials. **[Ord. 2011-001]** **[Consolidated with Art. 5.B.1.A.2.e.1, Dangerous Materials]**~~

Reason for amendments in the Matrix: [Zoning] Delete use from MUPD with a Commercial Low Office (CLO), Commercial High Office (CHO) and Commercial Recreation (CR) FLU designation as no transfer stations are approved within these districts.



9. Water or Wastewater Treatment Plant

HISTORY: The Water or Treatment Plant use definition and supplemental standards were first referenced as part of the 1992 ULDC (Ord.1992-020). The definition was amended by Ord. 1993-004, 2003-067 and 2007-013. The supplemental standards were amended by Ord. 2003-067 and 1999-037.

Reason for amendments: [Zoning]

1. Revise the Odor standard consistent with F.S. 386, Part I to clarify that enforcement is primarily the responsibility of the Florida Department of Health.
2. Revise the Package Treatment Facility standard to be consistent with the Comprehensive Plan for facilities in the Urban Service Area (USA) and the Limited Service Area (LSA).
3. Update reference to FAC 17-602 with new FAC 62-699 and 62-602 applicable to staffing and operator requirements.
4. Update reference to FAC 17-640 with new FAC 62-640. Revise the Dewatered Domestic Water Residual Land Application (DDWRLA) standard consistent with FAC 62-640. The revised FAC replaces Dewatered Domestic Wastewater Residual (DDWR) with Requirements for Land Application of Class AA, A and B Biosolids.
5. Relocate standard related to barbed wire as all regulations have been consolidated under dangerous materials in Article 5, Supplementary Standards. Article 5 will be amended to include this use as one that allows barbed wire.

a. Definition

A facility designed for treatment and disposal of more than 5,000 gallons per day of water or wastewater.

ab. Location

In the AGR district, a water or wastewater treatment plant shall not be located west of SR 7/ US 441.

Notes:

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bc. Odor Sanitary Nuisances

Facilities shall be designed and operated to minimize objectionable odors. Potential sanitary nuisances shall be addressed by the PBC Health Department pursuant to F.S. Chapter 386, Part I, as may be amended from time to time.

ed. Compatibility Setbacks - Wastewater and Water Treatment Plant

For purposes of this Section, the AR Zoning ~~district~~ is not considered a residential district. Required setbacks, ~~screening and buffering~~ are as follows:

Table 4.B.47.AC – Wastewater Treatment Facility Plant Setbacks

Type/Capacity	Type of Facility	Setback from Residential and Commercial District	Setback From Non-Residential and Non-Commercial District
Wastewater treatment facilities over one million gallons per day capacity:	Head works, clarifiers, sludge treatment & handling facilities without odor control	750 feet	500 feet
	Head works, clarifiers, sludge treatment & handling facilities with odor control	300 feet (2)	200 feet (1)
	Chemical storage facilities	300 feet	200 feet
	Accessory facilities	200 feet	100 feet
Wastewater treatment facilities up to one million gallons per day capacity including package treatment facilities	Treatment units without odor control	150 feet	150 feet
	Treatment units with odor control	100 feet(1)	100 feet (1)
	Chemical storage facilities	100 feet	100 feet
	Accessory facilities	100 feet	100 feet
Water Reclamation Production Facility (any capacity stand alone facility larger than a minor utility which is filtering already treated wastewater (secondary effluent) (3) (4)	Storage Tanks, Filtration System, Hypochlorite tanks, Office/Lab/Generator buildings, and accessory facilities	50 feet front; 15 feet side; 25 feet side street; and 20 feet rear or the minimum district setback, whichever is greater	50 feet front; 15 feet side; 25 feet side street; and 20 feet rear or the minimum district setback, whichever is greater
Membrane Bio-Reactor (MBR) System	Storage tanks, enclosed reinforced hollow fiber or flat plate membranes, clarification, aeration and filtration of wastewater for discharge or reuse applications	50 feet front; 15 feet side; 25 feet side street; and 20 feet rear or the minimum district setback, whichever is greater	50 feet front; 15 feet side; 25 feet side street; and 20 feet or the minimum district setback, whichever is greater
Notes:			
<p>1. Minimum lot dimensions shall be governed by the regulations above or the most recent standards adopted by the District and shall apply only to new schools. The District shall forward any changes in the standards to the Department within 20 days of School Board adoption. Minimum lot dimensions shall include, if applicable, sufficient room for any onsite retention.</p> <p>2. Tertiary filters do not require odor control.</p> <p>3. If an existing utility site is being redeveloped into a water reclamation production facility or MBR, the setbacks established for the original use will be utilized for the water reclamation facility or MBR unless they are more restrictive than the setbacks noted in this table. If the reclamation or MBR facility qualifies as a minor utility those regulations will apply instead of this table. [Ord. 2007-013]</p> <p>4. A Water Reclamation Production Facility treating raw wastewater to tertiary levels must meet the setback requirements for a Wastewater Treatment Plant of similar capacity unless it qualifies as a minor utility, in which case, those regulations will apply. [Ord. 2007-013]</p>			

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1

Table 4.B.17.AC - Water Treatment Facility Plant Setbacks for Open Treatment Process

Type/Capacity	Type of Facility	Setback
Water treatment facilities over two million gallons per day capacity	Treatment units and chemical storage	200 feet
	Units which cause airborne sulfides	500 feet (1)
	Accessory facilities	100 feet
Water treatment facilities up to two million gallons per day capacity, including package treatment facilities	Treatment units and chemical storage	100 feet
	Units which cause airborne sulfides	250 feet (2)
	Accessory units	100 feet
[Ord. 2004-054] [Ord. 2007-013]		
Notes:		
1. Odor Control. Unless treatment for removal of sulfides for odor control is included. [Ord. 2004-054]		
2. Maximum building height. Buildings not including storage tanks and water towers higher than 35 feet are allowed provided the following setbacks are met: [Ord. 2004-054] [Ord. 2007-013]		
a. The minimum yard setback of this section; and		
b. An additional one foot setback for each one foot in height exceeding 35 feet.		

2

Table 4.B.17.AC - Water Treatment Facility Plant Setbacks For Enclosed Treatment Process without Gas Chlorine

Type/Capacity	Yard	Setback
Water treatment facilities over two million gallons per day capacity	Front	80 feet
	Side	50 feet
	Rear	50 feet
	Chemical Storage	200 feet (1)
Water treatment facilities up to two million gallons per day capacity, including package treatment facilities	Front	80 feet
	Side	50 feet
	Rear	50 feet
	Chemical Storage	100 feet
Note:		
1. Chemical storage setbacks may be reduced by fifty percent for facilities using enclosed treatment process without Chlorine gas, along property lines adjacent to parcels with a PO Zoning ed istrict and INST FLU designated , or AP z oning ed istrict and FLU designations.		

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e. Landscaping

1) Buffer

Perimeter landscape buffers shall have a minimum width of 25 feet or be equal to the setback requirements if less than 25 feet. [Ord. 2007-013].

2) Trees

A single row of trees shall be planted all landscape buffers at a ratio of one 14 foot tall tree for each 25 linear feet. [Ord. 2007-013]

3) Screening

Screening consisting of a hedge, berm, or fence wall which will present a visual screen at least six feet in height within one year of installation shall be provided around the perimeter of the site. [Ord. 2007-013]

ef. Package Treatment Facility

Package water or wastewater treatment facilities shall comply with the following additional standards:

1) USA

~~If a package treatment facility is proposed to be developed in the designated Urban Service Area (USA), confirmation shall be provided from the appropriate utility that central water or wastewater service is not available at the time the application for development permit is submitted and that service is projected to be unavailable within four years of that date.~~

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12) Limited Service Area (LSA)

a) Package treatment facility shall be prohibited in the LSA except for use by schools or located in the United Technology Corporation Protection Overlay or the North County General Aviation Facility.

b) If a package treatment facility is proposed to be developed in the Limited Service Area (LSA), confirmation shall be provided from the PBCHD that use of a package treatment plant is necessary to protect water quality. The PBCHD shall certify that the uses proposed can be adequately served with a package treatment plant.

23) Rural Service Area (RSA)

If a package treatment facility is proposed to be developed in the Rural Service Area (RSA), there shall be demonstrated evidence that it is to be used to provide potable water or wastewater service to bona fide agricultural uses, public recreational uses, public educational uses, or other uses when found to be consistent with the Plan by the Planning Director and upon approval of the Director of the PBCHD. The PBHD may impose conditions or restrictions necessary to protect public health and prevent the creation of a nuisance. All package plants in the RSA shall be operated and maintained by a public utility. Based on the standards of operator coverage in Chapters 17-602 62-699 and 62-602, F.A.C., the BCC, may require a higher level of operator coverage.

eg. Effect on Previously Approved Facilities

Water and wastewater treatment facilities approved prior to the effective date of this Code shall be considered conforming uses. Expansion or redevelopment of existing facilities or an existing utility site to the same or a different utility use or treatment technology may be allowed with setbacks lower less than those listed in this Section of the Code provided the expansion or redevelopment is reviewed and approved by the DRO and odor control is provided if applicable. [Ord. 2007-013]

fh. Dewatered Domestic Wastewater Residual Biosolids Land Application

Class A or B Dewatered Domestic Wastewater Residuals (DDWR) biosolids, as defined by Chapter 1762-640, F.A.C., may be applied to land in bona fide agricultural operation in the AP, AGR and AR districts. Class AA DDWR biosolids, as defined by Chapter 1762-640, F.A.C., has unlimited distribution pursuant to Chapter 1762-640, F.A.C. Nothing herein shall preclude disposal of DDWR biosolids at a landfill or at a wastewater treatment facility in compliance with applicable Federal, State and local regulations nor effect any DDWR biosolid operation approved prior to the effective date of this Code.

1) AP and AGR Districts

A Class A or B DDWR biosolid shall be permitted by right on the site of a bona fide agricultural operation as a matter of right in the AP and AGR districts in compliance with FDEP standards in Chapter 1762-640, F.A.C., as verified by the PBCHD. Following verification, the PBCHD shall be notified of the proposed first date of the land application no fewer than thirty days prior to land application.

2) AR District

Land application for a Class A or B DDWR biosolid shall be permitted in the AR district on the site of a bona fide agricultural operation following approval by the DRO. An applicant shall demonstrate compliance with FDEP standards except that the required separation from buildings and other property lines shall be as specified below. In the case of several adjacent properties which apply for a DDWR biosolid the properties may be combined for the purpose of measuring the required separation and the separation may be measured from the boundary of the most exterior property.

a) External Separation

There shall be a minimum separation of 500 feet from any off-site structure occupied on a daily or frequent basis by people. This distance shall be measured from the perimeter of the DDWR biosolid application area outward toward the structure.

b) Internal Separation

Internal to the site, there shall be a minimum 200 foot separation from the perimeter of the DDWR biosolid application area to the property line of the parcel.

c) Setbacks

These setbacks may be reduced or increased by the Director of the PBCHD.

g. Barbed Wire

Barbed wire may be installed pursuant to Art. 5.B.1.A.2.c, Dangerous Materials. [Ord. 2011-001] [Consolidated with Art. 5.B.1.A.2.e.1, Dangerous Materials]

Reason for amendments in the Matrix: [Zoning] No change to the approval process is being proposed.

Notes:

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

Part 3. ULDC Art. 4, Use Regulations [Related to Air Stripper] is hereby deleted from Article 4 to relocate in Art. 5 as follows:

Reason for amendments: [Zoning]
1. Relocate use from Article 4, Use Regulations and relocate standards under Article 5.B.1.A.22, Air Stripper, as the Department of Environmental Protection (DEP) and the Palm Beach County Health Department regulate air strippers.

Air Stripper

~~A temporary remedial system which treats contaminated groundwater. ...~~ [Partially relocated to New 5.B.1.A.22]

a.—Duration

~~The length of time a remedial system may remain on a site shall be determined by ERM.~~ [Relocated to New 5.B.1.A.22]

b.—Setback

~~If the applicant is unable to meet the property development regulations, in lieu of a variance, the Zoning Division shall be authorized to determine the location of the incinerator and set necessary conditions for landscaping and screening.~~ [Relocated to New 5.B.1.A.22]

Reason for amendments in the Matrix: [Zoning] This use is being relocated to Art. 5.B, Accessory Uses, as its typically accessory to remediation of contamination caused by other uses, such as fuel storage, gas stations and dry cleaners.

Part 4. ULDC Art. 4, Use Regulations [Related to Recycling Drop Off Bin] is hereby deleted from Article 4 to relocate in Art. 5 as follows:

HISTORY: The Recycling Drop-Off Bin definition and supplemental standards were first referenced as part of the 1992 ULDC (Ord.1992-020). The definition was amended by Ord. 1997-064, 2001-001, 2003-067, 2007-001 and 2013-001. The supplemental standards were amended by Ord.1997-064, 2001-001, 2003-067, 2005-002, 2010-005 and 2013-001.

Reason for amendments: [Zoning]
--

1. Relocate standards under Article 5.B.1.A.23, Recycling Drop-Off Bin. A Recycling Drop-Off Bin is commonly utilized as an accessory and temporary use or structure and not a principal use.

2. Delete the Manning standard. A manned Recycling Drop-Off Bin would still be allowed but not regulated by the Zoning Division.

3. Delete Agricultural Residential/Rural Service Area (AR/RSA) Zoning District standard with Specialized Agriculture (SA) FLU designation. The Comprehensive Plan, III.C.5, identifies the SA FLU designation as a "transitional agricultural classification", Recycling Drop-Off Bins do not meet the intent of the SA FLU designation.

104. Recycling Drop-Off Bin

~~A totally enclosed mobile structure or container within which the following pre-sorted, recyclable materials are collected: glass, aluminum, steel and plastic containers no greater than six gallons in capacity, and paper.~~ [Ord. 2007-001] [Ord. 2013-001]

a.—Mobility

~~The mobility of a drop-off bin shall be maintained at all times.~~

b.—Location

~~The drop-off bin shall be located in or adjacent to an off-street parking area, and shall not be located within required parking spaces. In TMD and LCC districts, and for IRO projects, the recycling drop-off bins shall be designed to be consistent with the building's design and shall not be located on a Main Street.~~ [Ord. 2010-005] [Ord. 2013-001]

c.—Maintenance

~~The bin and adjacent area shall be maintained in good appearance and free from litter, debris, and residue on a daily basis. Failure to maintain a good appearance shall result in the revocation of the special use permit, where applicable.~~ [Ord. 2013-001]

d.—Processing

~~No processing of deposited materials shall be allowed on the site. Limited sorting or separation shall only be permitted when a bin is manned by a person during permitted collection hours. The unit shall employ no mechanical sorting or processing equipment.~~ [Ord. 2013-001]

e.—Prohibited Materials

~~Collection of materials shall be expressly limited to pre-sorted, recyclable materials identified in this supplementary standard. Collection of any other materials, including but~~

Notes:

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

~~not limited to rubber, textiles, hazardous wastes or construction debris is prohibited.
[Ord. 2013-001]~~

~~f. Signage~~

~~Signage shall be required for all bins, as follows: [Ord. 2013-001]~~

~~1) Location~~

~~One sign shall be located on the front or side where materials are collected. No more than two signs shall be permitted. [Ord. 2013-001]~~

~~2) Minimum/Maximum Size~~

~~A minimum of eight and a maximum of 16 square feet. [Ord. 2013-001]~~

~~3) Content~~

~~All required sign content shall be in lettering a minimum of six inches in height. The name and phone number of a responsible party shall be clearly posted. The name of the organization that is collecting the recyclable materials shall also be posted and include whether for profit, not for profit or government entity. No additional content other than logos, clarification of materials to be collected for recycling, or direction signage identifying the bin shall be permitted. [Ord. 2013-001]~~

~~g. Number~~

~~The number of recycling bins shall be based upon the overall acreage of a development, including outparcels, provided all development regulations are met on site. A minimum of one recycling bin shall be permitted for each development up to a maximum of one recycling bin per acre, rounded down to the nearest whole acre. No more than 3 bins shall be clustered or located within any one acre area unless collocated with loading, dumpster or other similar areas. [Ord. 2013-001]~~

~~h. Outdoor Storage Prohibited~~

~~Recycling materials shall be contained within a leak-proof bin or trailer. There shall be no outdoor storage of materials or refuse.~~

~~i. AR/RSA~~

~~May be permitted in the AR/RSA District with a SA FLU, subject to DRO approval. [Ord. 2005-002] [Ord. 2007-001]~~

~~j. Size~~

~~A maximum of 500 square feet of GFA. [Ord. 2013-001]~~

~~k. Manning~~

~~A recycling bin containing 40 cubic yards or more shall be monitored by a person. Manned collection activities shall be limited to 7:00 a.m. to 8:00 p.m. daily. [Ord. 2013-001]~~

~~l. Approval Process~~

~~If there is no DRO certified site plan on file with the Zoning Division, a Special Permit shall be required. [Ord. 2013-001]~~

Reason for amendments in the Matrix: [Zoning] The use is being relocated to Article 5.B, Accessory Uses, and the approval processes in all districts will be deleted.

Part 5. New ULDC Art. 5.B.1.A.22, Air Stripper, is hereby relocated from Art. 4 as follows:

Reason for amendments: [Zoning] Relocate standards under Article 5.B.1.A.22, Air Stripper. It is both an accessory use and structure which is permitted by right on a vacant lot. The DEP and the Palm Beach County Health Department regulates air strippers for onsite contaminants.

CHAPTER B ACCESSORY AND TEMPORARY USES

Section 1 Supplementary Regulations

A. Accessory Uses and Structures

22. Air Stripper

~~A remedial system which treats contaminated groundwater. [Relocated from Art. 4.B.1.A.11, Air Stripper]~~

~~a. Duration~~

~~The length of time a remedial system may remain on a site shall be determined by ERM. [Relocated from Art. 4.B.1.A.11, Air Stripper]~~

~~b. Setback~~

~~If the applicant is unable to meet the property development regulations, in lieu of a variance, the Zoning Division shall be authorized to determine the location of the structure and set necessary conditions for landscaping and screening. [Relocated from Art. 4.B.1.A.11, Air Stripper]~~

Notes:

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

1 Part 5. New ULDC Art. 5.B.1.A.23, Recycling Drop-Off Bin, is hereby relocated from Art. 4 as
2 follows:
3

Reason for amendments: [Zoning] Partially relocate and amend standards under Article 5.B.1.A.23, Recycling Drop-Off Bin from Article 4.B.1.A.104. The standards will also be consistent with standardized formatting protocol. A Recycling Drop-Off Bin is commonly utilized as an accessory and temporary use or structure and not a principal use.

4 CHAPTER B ACCESSORY AND TEMPORARY USES

5 Section 1 Supplementary Regulations

6 A. Accessory Uses and Structures

7 **23. Recycling Drop-Off Bin**

8 *A totally enclosed mobile structure or container open to the public within which the following*
9 *pre-sorted, recyclable materials are collected: glass, aluminum, steel and plastic containers*
10 *no greater than six gallons in capacity, and paper. [Ord. 2007-001] [Ord. 2013-001]*

11 **a. Approval Process**

12 *If there is an approved Site Plan on file with the Zoning Division an Expedited*
13 *Administrative Modification shall be required, otherwise a Special Permit shall be*
14 *obtained. [Ord. 2013-001]*

15 **b. Location**

16 *The drop-off bin shall be located in or adjacent to an off-street parking area, and shall not*
17 *be located within required parking spaces. [Ord. 2010-005] [Ord. 2013-001]*

18 **c. Signage**

19 *Signage shall be required for all bins, as follows: [Ord. 2013-001]*

20 **1) Location**

21 *One sign shall be located on the front or side where materials are collected. No more*
22 *than two signs shall be permitted. [Ord. 2013-001]*

23 **2) Minimum/Maximum Size**

24 *A minimum of eight and a maximum of 16 square feet. [Ord. 2013-001]*

25 **3) Content**

26 *All required sign content shall be in lettering a minimum of six inches in height. The*
27 *name and phone number of a responsible party shall be clearly posted. The name of*
28 *the organization that is collecting the recyclable materials shall also be posted and*
29 *include whether for profit, not-for profit or government entity. No additional content*
30 *other than logos, clarification of materials to be collected for recycling, or direction*
31 *signage identifying the bin shall be permitted. [Ord. 2013-001]*

32 **d. Outdoor Storage**

33 *All recyclable materials shall be contained within a leak-proof bin. There shall be no*
34 *outdoor storage of recyclable materials or refuse.*

35 **e. Maintenance**

36 *The bin and adjacent area shall be maintained on a daily basis. Failure to maintain the*
37 *bin and adjacent area shall result in the revocation of the Special Permit, where*
38 *applicable. [Ord. 2013-001]*

39 **f. Processing**

40 *No processing of recyclable materials shall be allowed on the site. Limited sorting or*
41 *separation shall only be permitted when a bin is manned by a person during permitted*
42 *collection hours. The unit shall employ no mechanical sorting or processing equipment.*
43 *[Ord. 2013-001]*

44 **g. Prohibited Materials**

45 *Collection of materials shall be expressly limited to pre-sorted, recyclable materials*
46 *identified in this supplementary standard. Collection of any other materials, including but*
47 *not limited to rubber, textiles, hazardous wastes or construction debris is prohibited.*
48 *[Ord. 2013-001]*

49 **h. Number**

50 *The number of recycling bins shall be based upon the overall acreage of a development,*
51 *including outparcels, provided all development regulations are met on site. A minimum of*
52 *one recycling bin shall be permitted for each development up to a maximum of one*
53 *recycling bin per acre, rounded down to the nearest whole acre. No more than three bins*
54 *shall be clustered or located within any one acre area unless collocated with loading,*
55 *dumpster or other similar areas. [Ord. 2013-001]*

56 **i. Size**

57 *A maximum of 500 square feet of GFA. [Ord. 2013-001]*

58 **j. Mobility**

59 *The mobility of a drop-off bin shall be maintained at all times.*
60

Notes:

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EXHIBIT B

ARTICLE 4.B, USE REGULATIONS
SUMMARY OF AMENDMENTS
(Updated 6/3/15)

Part 6. ULDC Table 7.F.9.B, Required Incompatibility Buffer Types, is hereby amended as follows:

Reason for amendments: [Zoning] Delete footnote number one and defer to Article 7 ULDC requirements for buffers for Minor Utilities.

Table 7.F.9.B - Required Incompatibility Buffer Types

Building Height Difference Between Adjacent Uses		Required Buffer Type
14 to 28 ft.		Type 1
28 to 35 ft.		Type 2
Greater than 35 ft.		Type 3
Existing Use Type	Proposed Use Type	Required Buffer Type
Single-Family	Multi-Family, Type II CLF	Type 1
Residential	Commercial	Type 2
Residential	Recreational	Type 2
Residential	Civic	Type 2
Residential	Agricultural	Type 3
Residential	Industrial	Type 3
Residential	Utility	Type 3
[Ord. 2008-003]		
Notes:		
1- Buffer for minor utilities shall be determined by the DRO.		
12. If the height and use differences in Table 7.F.7.B are not applicable, then a compatibility buffer shall be required. (See Art. 7.F.8, Compatibility Buffer)		
23. Determination of use types subject to Art. 4.A.3.A, Use Matrix.		

U:\Zoning\CODEREV\Research - Central\Use Regulations Project\2 - Amendment Drafts\4 - Utilities and Excavation\0-Consolidated Utilities\5-29-15 Utilities AFTER 2nd RT DRAFT (REVISED REASONS).docx

Notes:

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EXHIBIT C

EXCAVATION USES
SUMMARY OF AMENDMENTS
(Updated 06/05/15)

Part 1. ULDC Art. 1.B.1.A, Authority, (page 6 of 119), is hereby amended as follows:

Reason for amendments: [Zoning]
1. Update and clarify who interprets Article 4.B.10, Excavation Uses: the Director of the Environmental Resource Management (ERM), the County Engineer, or the Planning, Zoning and Building (PZB) Executive Director. For example, Zoning related provisions such as setbacks should be interpreted by the PZB Executive Director instead of the Director of ERM, as currently established in the Code. Specific Excavation articles contain regulations that pertain to all three departments and should be interpreted by the PZB Executive Director in consultation with the Director of ERM and the County Engineer, or, by the Director of ERM in consultation with PZB Executive Director.
2. As part of the Use Regulations Project, articles in the interpretation provisions of the ULDC will also reflect new order and numbering as a result of the reorganized Excavation section.

CHAPTER B INTERPRETATION OF THE CODE

Section 1 Interpretations

A. Authority

Interpretations to this Code and the Official Zoning Map shall be made by the Executive Director of PZB or designee with the following exceptions: [Ord. 2011-016]

....
3. The County Engineer shall have the authority to make all interpretations of Art. 4.B.10.B.7.a 10), Hauling Standards; Art. 4.B.10.B.7.b.2)c), Drainage; 4.B.10.C.5.g.5, Haul Agreement; Art. 6.C, Driveways and Access; Art. 11, Subdivision, Platting, and Required Improvements; and Art. 12, Traffic Performance Standards; [Ord. 2011-016]

....
5. The Director of ERM shall have the authority to make all interpretations of ~~ART. Art. 14, Environmental Standards and Article 4.D, EXCAVATION~~ to interpret the following parts of Art. 4.B.10, Excavation Uses in consultation with the Executive Director of PZB or designee as appropriate: Art. 4.B.10.B.4.b.8), WCAA Canals, Art. 4.B.10.B.4.b.9); Mitigation Projects, Art. 4.B.10.B.4.b.10), Wetlands; Art. 4.B.10.B.4.b.13), Canals of Conveyance; Art. 4.B.10.B.7.c.1)a)2), Littoral Planting; Art. 4.B.10.B.7.c.3), Littoral Planting Reclamation Standards; Art. 4.B.10.B.7.c.5), Area of Record; Art. 4.B.10.B.7.d.5)b), Excavated Area; Art. 4.B.10.B.7.d.5)c), Littoral Zones; Art. 4.B.10.B.7.d.6)b), Excavated Area and Litoral Zones; Art. 4.B.10.B.7.d.7)a), Excavated Areas for Type 3 Excavation; Art. 4.B.10.B.7.e, Maintenance and Monitoring; Art. 4.B.10.B.8.a, Administrative Waiver from Construction Criteria for Agricultural, WCAA, Type 2 and Type 3 Excavations; Art. 4.B.10.B.8.b.1), Violations; Art. 4.B.10.B.8.f, Use of Collected Monies; Notice of Intent to Construct in Art. Art. 4.B.10.B.6, Art. 4.B.10.C.1.h; Art. 4.B.10.C.1.i.6); and, Art. 4.B.10.C.5.g.6); Art. 4.B.10.C.1.c, Maximum Depth, Art. 4.B.10.C.4.e, Depth, and, Art. 4.B.10.C.5.e, Depth, [Ord. 2011-016]

....
10. The Executive Director of PZB or designee shall have the authority to make interpretations of the following provisions found in Art. 4.B.10, Excavation Uses in consultation with the Director of ERM and the County Engineer as appropriate: Art. 4.B.10.B.4.a, Prohibitions; Art. 4.B.10.B.4.b.12), De Minimis Impact; Art. 4.B.10.B.4.b.14), Excavation by Public Agencies; Art. 4.B.10.B.6.e, Written Approval, Art. 4.B.10.B.7.b.2), Slopes except for Art. 4.B.10.B.7.b.2)c), Drainage; Art. 4.B.10.B.7.d.1), General; Art. 4.B.10.B.7.d.2), Guarantees Required; Art. 4.B.10.B.7.d.4), Form of Guarantee; Art. 4.B.10.B.7.d.6), Submittal and Approval of Guarantee; Art. 4.B.10.B.7.d.7), Duration and Release; Art. 4.B.10.B.7.d.8), PBC Use of Guarantee; and, Art. 4.B.10.B.8.c, Enforcement.

Notes:

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EXHIBIT D

EXCAVATION USES
SUMMARY OF AMENDMENTS
(Updated 06/04/15)

1
2 Part 1. ULDC Art. 1.I.2, Definitions, (page 34 and 57 - 58 of 119), is hereby amended as follows:
3

Reason for amendments: [Zoning] Delete duplicate definition of Agricultural Excavation in Article 1 as standard is already used in Art. 4.B.10, Excavation Uses.

4 CHAPTER I DEFINITIONS & ACRONYMS

5 Section 2 Definitions

6 A. Terms defined herein or referenced in this Article shall have the following meanings:

7 ~~40. Agricultural Excavation – approval process for agricultural excavation is administered by~~
8 ~~ERM and PZB. Agricultural excavation in the WCAA are administered by ERM. Application~~
9 ~~procedures and requirements are in Art. 4.D.5.A, Agricultural Excavations.~~

10 [Renumber Accordingly]

11

12 E. Terms defined herein or referenced in this Article shall have the following meanings:

13 For the purposes of Art. 4.B.10 and Art. 14.A respectively:

14 38. **Excavate or Excavation** - the extraction of minerals from the earth necessary to (1)
15 construct a single family dwelling; or (2) support bona-fide agricultural production operations;
16 or (3) to implement a final site development plan; or (4) any act wherein the earth is cut into,
17 dug, quarried, uncovered, removed, displaced, or deliberately disturbed to create a temporary
18 or permanent body of water, including the conditions resulting there from. Excavation
19 excludes agricultural plowing, site grading, dry retention/detention, demucking and canal
20 dredging in preparation for construction.

21 39. **Excavation**– displacement of soil or sand by the processes not limited to digging, dredging,
22 scooping, or hollowing out.

23

24

25 Part 2. ULDC Art. 2.D.1.G.2.b.7), [Related to Agency Review Expedited Administrative
26 Modifications], (page 41 of 87) is hereby amended as follows:
27

Reason for amendments: [Zoning] Update Type 1B Excavation reference to reflect use of Arabic numbers instead of Roman numbers for consistency with proposed changes in the Excavation Uses chapter of Art. 4, Use Regulations.

28 CHAPTER D ADMINISTRATIVE PROCESS

29 Section 1 Development Review Officer (DRO)

30 G. Modifications to Prior Development Orders

31 2. Expedited Administrative Modifications

32 b. Agency Review

33 7) Modifications to approved Type ~~1~~¹B Excavation; [Ord. 2008-003] [Ord. 2011-001]
34 [Ord. 2014-001]

35

36

37

38 Part 3. ULDC Art. 2.D.3.D.1.d, [Related to Type 1B Administrative Variance for Residential Lots
39 of Three Units or Less] (page 43 of 87), is hereby amended as follows:
40

Reason for amendments: [Zoning] Update reference to Type 1A and Type 1B Excavation under Type 1B Administrative Variances, to reflect changed article numbers resulting from the reorganized excavation language as part of the Use Regulations Project.

41 CHAPTER D ADMINISTRATIVE PROCESS

42 Section 3 Type 1A and Type 1B Administrative Variances

43 D. Type 1B Administrative Variances

44 1. Residential Lots of Three Units or Less

45 A variance may be requested for the following: [Ord. 2006-036] [Ord. 2008-003]

46

47

48 d. Relief from Excavation Standards (~~Art. 4.D.5.B, Type 1A Excavation, and Article 4.D.5.C,~~
49 ~~Type 1B Excavation) in Art. 4.B.10.C.2, Type 1A Excavation and Art. 4.B.10.C.3, Type~~
50 ~~1B Excavation~~ . [Ord. 2008-003]

51

52

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Notes:

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EXHIBIT D

EXCAVATION USES
SUMMARY OF AMENDMENTS
(Updated 06/04/15)

Part 4. Table 2.E.3.B - Time Limitation of Development Order for Each Phase, (page 58 of 87), is hereby amended as follows:

Reason for amendments: [Zoning] Update table footnotes to reflect use of Arabic numbers instead of Roman numbers when excavation types are referenced, for consistency with proposed changes in the Excavation Uses chapter of Art. 4, Use Regulations.

Table 2.E.3.B - Time Limitation of Development Order for Each Phase

TYPE OF DEVELOPMENT ORDER	MAXIMUM NUMBER OF PHASES	NEXT REQUIRED ACTION OR DEVELOPMENT ORDER	MAXIMUM TIME TO RECEIVE DEVELOPMENT PERMIT OR COMMENCE DEVELOPMENT	MAXIMUM LENGTH OF ADMINISTRATIVE TIME EXTENSION ⁴	ACTION UPON FAILURE TO COMPLY WITH TIME REQUIREMENT WITHOUT AN APPROVED TIME EXTENSION
....					
[Ord. 2005 – 002] [Ord. 2006-004] [Ord. 2007-01] [Ord. 2008-003] [Ord. 2008-037] [Ord. 2009-040] [Ord. 2014-025]					
Notes:					
....	2. From resolution adoption date for first phase, and from date of commencement of development of last phase, or last plat recordation date, for subsequent phases. The maximum time to commence development for each phase of a Type III <u>3</u> Excavation shall be established by a condition of approval.				
....	5. The maximum number of phases and duration of each phase for a Type III <u>3</u> Excavation shall be established by a condition of approval.				
....					

Part 5. Art. 2.G.3, Appointed Bodies, (pages 75 - 76 and 85 of 87), is hereby amended as follows:

Reason for amendments: [Zoning]

- Clarify that power and duties of the Groundwater and Natural Resource Protection Board may be limited to specific provisions interpreted by ERM, as a result of changes proposed in Art. 1.B.1, Interpretations of Excavation Use Regulations.
- Reflect use of Arabic numbers instead of Roman numbers for excavation types to be consistent with proposed changes in the Excavation Uses chapter of Art. 4, Use Regulations.
- Clarify that the Director of ERM has the authority to review and approve or deny applications for Agricultural Excavations in the West County Agricultural Area (WCAA), as established in Art. 4.D.3.A, Agricultural Excavation (ULDC Supp. 18). The provisions for Excavation Uses in Article 4 indicate that approvals for Agricultural Excavation outside of the WCAA, Type 2 Excavation and Type 3 Excavation are administered by both ERM and the PZB Department.

CHAPTER G DECISION MAKING BODIES

Section 3 APPOINTED BODIES

F. Groundwater and Natural Resources Protection Board

2. Powers and Duties

The GNRPB shall have the following powers and duties:

- to hold hearings as necessary to enforce Article 14, Environmental Standards. ERM may refer alleged violations of Art. 14 Environmental Standards, and applicable Art. ~~4.D~~ 4.B.10, Excavation Uses, Ord. 2003-020, Petroleum Storage Systems, Ord. 2003-021, Petroleum Contamination Clean-up criteria, Ord. 2004-050, Stormwater Pollution and Prevention, Natural Areas, Ord. 1994-014 and Ord. 1993-003, Water and Irrigation Conservation as amended to the GNRPB, if there has been a failure to correct a violation within the time specified by the Code Inspector, if the violation has been repeated, or is of such a nature that it cannot be corrected; [Ord. 2006-004] [Ord. 2010-022]

....

G. Development Review Officer (DRO)

3. Comments and Recommendations

- The DRO may seek comments and recommendations from the following PBC departments and divisions, as well as other local government and state government agencies, as deemed appropriate by the DRO: [Ord. 2008-037]

....

- 15) Department of Environmental Protection (DEP) for Type ~~III~~ 3 Excavation. [Ord. 2008-037]

Notes:

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Section 4 STAFF OFFICIALS

H. Director of ERM

2. Jurisdiction, Authority and Duties

In addition to the jurisdiction, authority and duties which may be conferred upon the Director of ERM by other provisions of PBC Code and PBC Charter, the Director of ERM shall have the following jurisdictions, authority and duties under this Code:

- a. to review, consider and render interpretations to Article 14, Environmental Standards;
- b. to review and approve, approve with conditions or deny applications for development or permits for sea turtle protection and sand preservation, wetlands protection, wellfield protection, upland vegetation preservation and protection, Agricultural Excavation in the WCAA, water and irrigation conservation, stormwater pollution prevention, and other ordinances as may be assigned by the BCC;

Part 6. Art. 3, Overlays and Zoning Districts, (page 34 and 171 of 234), is hereby amended as follows:

Reason for amendments: <u>[Zoning]</u>
1. Update Excavation type reference to reflect use of Arabic numbers instead of Roman numbers for consistency with proposed changes in the Excavation Uses chapter of Art. 4, Use Regulations.
2. Update Excavation Uses reference to reflect updated article numbers resulting from the reorganized excavation language as part of the Use Regulations Project.

CHAPTER B OVERLAYS

Section 9 PBIAO, Palm Beach International Airport Overlay

E. Review Procedures

1. Industrial Rezoning in Residential FLUA Designations

b. Rezoning Criteria

- 3) Lands within the PBIAO that are
- c) The following uses shall be prohibited: salvage junk yards, machine or welding shops, hazardous waste facilities, solid waste facilities, bulk storage facilities, transportation and multi-modal facilities, large-scale repair and heavy equipment repair and service facilities, petroleum and coal-derivations-manufacturing and storage facilities, heliports, helipads, airstrips, hangers and accessory facilities, and Type ~~##~~ 3 Excavation. **[Ord. 2004-051]**

CHAPTER E PLANNED DEVELOPMENT DISTRICTS (PDDs)

Section 2 Planned Unit Development (PUD)

G. RR PUD

1. Rural Residential

d. Option 1 – Rural Cluster

3) Development Area

a) Exception

Mitigation projects, excavation with jurisdictional wetlands, and excavation by public agencies, as defined as exempt in Article ~~4.D, EXCAVATION 4.B.10,~~ Excavation Uses, and regional water management facilities certified by the SFWMD, shall be permitted in open space areas.

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EXHIBIT D

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1
2

Reason for amendments: [Zoning]
1. Reorganize Excavation Use provisions contained in Article 4 for consistency with the formatting of uses done as part of the Use Regulations Project. The reorganized format presents the general standards applicable to all excavation types first, followed by specific standards for each excavation type. This change represents modifications of existing references throughout the entire Excavation Uses chapter.
2. Delete duplicated or redundant text already addressed by the section that contains it.
3. Update Excavation type reference to reflect use of Arabic numbers instead of Roman numbers through the entire Excavation Uses chapter. The change is done for consistency with construction of the Code.

3
4

B. Common Provisions and General Standards

Section 1. Purpose and Intent

The purpose of this Chapter is to provide for the health, safety, and welfare of the residents of PBC by ensuring beneficial and sound land management practices associated with excavation and mining activities. To prevent a cumulative negative impact on PBCs natural resources and to achieve these goals, it is the intent of this Section to:

- Aa.** ensure that mining and excavation activities do not adversely impact the health, safety, and welfare of the citizens of PBC;
- Bb.** prevent immediate and long-term negative environmental and economic impacts of poor land development practices;
- Cc.** encourage the use of economically feasible and environmentally sound mining and excavation practices;
- Dd.** preserve land values by ensuring that alteration of a parcel by non-commercial land excavation does not result in conditions that would prevent that parcel from meeting minimum land development requirements for other valid uses;
- Ee.** encourage the rehabilitation of commercially mined sites to other beneficial uses by promoting economical, effective and timely site reclamation;
- Ff.** protect existing and future beneficial use of surrounding properties from the negative effects of excavation and mining;
- Gg.** provide for the off-site disposal of excess extractive material provided that the excavation site is incorporated into the approval of a bona fide site development plan;
- Hh.** establish a regulatory framework of clear, reasonable, effective, and enforceable standards and requirements for the regulation of excavation, mining, and related activities; and
- ii.** ensure that excavation and mining activities and resulting mined lakes are not allowed to become public safety hazards, or sources of water resource degradation or pollution.

Section 2. Applicability

All mining and excavation activities that create a temporary or permanent body of water within unincorporated PBC shall comply with the regulations established in the Code and other State and Local requirements, as applicable.

Aa. Conflicting Provisions

~~To the extent~~ **In the event that** provisions of this Section conflict with regulations of other applicable regulatory agencies, the more restrictive regulations shall apply. Other permitting agencies include but are not limited to SFWMD, Florida Fish and Wildlife Conservation Commission, USACE, DEP, and ERM. [Ord. 2006-004] [Ord. 2013-021]

Bb. Previously Approved Development Orders

Applications for excavation and mining projects approved prior to September 25, 1996, may amend the certified site (excavation) plan pursuant to Article 2.D, Administrative Process, to comply with the standards enumerated below provided the standards do not conflict with Development Order conditions. ~~All standards of each Section shall apply.~~ Selective choice of standards shall not be permitted. The DRO may review and approve the excavation plan, pursuant to Article 2.D.1, Development Review Officer, provided the subject site complies with the compatibility criteria in Article ~~4.D.5.E.8.b~~ **4.B.10.C.5.i.2**), Type ~~III~~**3A** Excavations, and the technical standards in Article ~~4.D.8~~ **4.B.10.B.7**, Technical Standards, and provided there is no increase in the land area, excavated surface area, quantity of excavated material, or intensity as approved by the BCC in the original Development Order. Any increase shall require approval of a Development Order Amendment by the BCC pursuant to Article 2.B, Public Hearing Process. Applicable standards include:

~~Technical standards include:~~

- 1) Article ~~4.D.8.A~~ **4.B.10.B.7.a**, Operational Standards and Requirements;
- 2) Article ~~4.D.8.B~~ **4.B.10.B.7.b**, Construction Standards, excluding depth;
- 3) Article ~~4.D.8.C~~ **4.B.10.B.7.c**, Reclamation Standards;
- 4) ~~Art. 4.D.5.F.7.b~~ **Article 4.B.10.C.5.i 2)b)(3)**, Buffer; and

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5) Article ~~4.D.8.E~~ 4.B.10.B.7.e, Maintenance and Monitoring.

Section 3. Excavation Types

Excavation or mining activities shall not be conducted unless such activities are deemed exempt or an approval has been issued in accordance with this Section. The types of excavation that are allowed are as follows:

Aa. Agricultural Excavation

Approval process for ~~a~~Agricultural ~~e~~Excavation is administered by ERM and PZB. Application procedures and requirements are subject to ~~Art. 4.D.5.A~~ Article 4.B.10.C.1, Agricultural Excavations. Agricultural ~~e~~Excavation in the WCAA are administered by ERM. Application procedures and requirements are in Article ~~4.D.5.B-4.B.10.C.1.i~~, WCAA Excavations.

Reason for amendments: [Zoning]

Delete reference that makes Type 1A and 1B Excavations subject to the same requirements applicable to Type 3 Excavation such as type of soil and operations plan. Type 1 Excavation types are applicable only to Single Family Home sites therefore the activities and impacts involved are not comparable with other types of excavation.

Bb. Type #1 Excavation

Two approval processes (Types 1A and 1B) are administered by PZB for excavations on single-family lots. Application procedures and requirements are in Article ~~4.D.6.A 4.B.10.B.5.a~~, Content of Application, ~~and Article 4.D.6.B, Additional Application Requests for Type II, Type IIIA and Type IIIB.~~

Cc. Type #2 Excavation

The approval process for Type #2 excavation is administered by PZB and ERM. Application procedures and requirements are in Article ~~4.D.6.B~~ 4.B.10.B.5.b, Additional Application Requests for Type #2, Type #3A and Type #3B.

Dd. Type #3 Excavation

Two approval processes for commercial mining excavation activities (Type #3A and Type #3B) are administered by PZB and ERM. Application procedures and requirements are in Article ~~4.D.6. 4.B.10.B.5~~, Supplemental Application Requirements.

Section 4. Prohibitions and Exemptions

Aa. Prohibitions

Excavation and mining activities shall be prohibited in the following areas:

- 1) ~~RR20~~ FLU Designation.
- 2) ~~The Pleistocene Sand Ridge.~~
- 3) ~~An archeological site, unless approved and requested as a Class A Conditional Use.~~
- 4) ~~Publicly owned conservation areas, publicly owned preservation areas or environmentally sensitive lands.~~
- 5) ~~Areas otherwise prohibited by this Section.~~

Bb. Exemptions

The following excavation activities shall be exempt from the requirements of this Section:

1) Existing Lakes

Existing mined lakes approved prior to June 16, 1992 that have a valid Development Order which complies with the criteria below shall be exempt from the requirements of this Section. If an amendment is proposed that deviates from the original approval, then a Development Order Amendment shall be requested pursuant to Article 2.B, Public Hearing Process, and shall comply with the provisions in Article 1.F, Nonconformities. [Ord. 2010-022]

- a) ~~Regulated by a National Pollutant Discharge Elimination System Permit; or~~
- b) ~~Regulated by a Florida Department of Environmental Protection (DEP) industrial wastewater operation permit; or~~
- c) ~~Located within an approved residential, commercial, industrial or mixed-use development and function as a stormwater management facility pursuant to:~~
 - (1) ~~A surface water management construction permit issued by the SFWMD; or,~~
 - (2) ~~A conceptual permit issued by the SFWMD that delineates proposed littoral slopes of the excavated lake(s) conducive for planting; or~~
 - (3) ~~An applicable Land Development Permit depicting proposed littoral and upland slopes of a mined lake. As long as the existing excavated lake continues to meet the water quality standards contained in Chapter 62-302, F.A.C. [Ord. 2010-022]~~

2) Pools

Swimming pools, pursuant to Article 5.B, Accessory and Temporary Uses.

3) Small Ponds

Ponds accessory to a principal use, such as lily ponds, goldfish ponds, reflecting ponds, and other small ornamental water features with a maximum depth of four feet OWL and not exceeding 500 square feet in surface area.

4) Cemeteries

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- 1 Burial plots in approved cemeteries.
- 2 **5) R-O-W**
- 3 Excavation in a road R-O-W, when the road is under construction. To qualify for this
- 4 exemption, excavation shall be performed by PBC, the FDOT or any Water Control
- 5 District created by special act to operate under FS. Ch. 298.(95) Excavation activity
- 6 located outside the R-O-W boundary, performed to accommodate roadway drainage,
- 7 and which creates a permanent open body of water for a period of 180 days or more,
- 8 shall comply with the standards of a Type ~~#2~~ excavation in Article ~~4.D.5.D~~
- 9 ~~4.B.10.C.4~~, Type ~~#2~~ Excavation.
- 10 **6) Utilities**
- 11 Excavations necessary for the installation of utilities, including septic systems.
- 12 **7) Man-made Drainage Structures**
- 13 The repair, reconstruction and maintenance of existing non-tidal man-made canals,
- 14 channels, control structures with associated riprap, erosion controls, intake
- 15 structures, and discharge structures, provided:
- 16 a) All spoil material is deposited directly to a self-contained upland site, which will
- 17 prevent the release of material and drainage from the spoil site into surface
- 18 waters of the State;
- 19 b) No more dredging is performed than is necessary to restore the canal, channels,
- 20 and intake, and discharge structures to original design specifications or as
- 21 amended by the applicable permitting agency; and
- 22 c) Control devices in use at the dredge site that prevent the release of turbidity,
- 23 toxic, or deleterious substances into adjacent waters during the dredging
- 24 operation.
- 25 **8) WCAA Canals**
- 26 Canals of conveyance located in the WCAA which require permits from SFWMD or
- 27 DEP, provided the permitted project does not exceed 15 feet in depth from OWL.
- 28 **9) Mitigation Projects**
- 29 Mitigation projects permitted by SFWMD, DEP, or ERM, pursuant to F.S. Chapters
- 30 403 and 373, and Chapter 62-312, F.A.C., as amended, and ~~Art.~~ Article 14,
- 31 Environmental Standards, including projects approved to implement an adopted
- 32 Surface Water Improvement & Management (SWIM) plan, provided the permitted
- 33 project depth does not exceed 20 feet from OWL or 15 feet from OWL in the WCAA.
- 34 Projects proposed to exceed these depths shall comply with Article ~~4.D.6.~~ 4.B.10.B.5,
- 35 Supplemental Application Requirements, the administrative waiver requirements of
- 36 Article ~~4.D.9-4.B.10.B.8~~, Administration and Enforcement, and the technical
- 37 standards of Article ~~4.D.8.A~~ 4.B.10.B.7.a, Operational Standards and Requirements,
- 38 Article ~~4.D.8.B.1-4.B.10.B.7.b.1~~, Separation, Article ~~4.D.8.B.2~~ 4.B.10.B.7.b.2,
- 39 Slopes, Article ~~4.D.8.C~~ 4.B.10.B.7.c, Reclamation Standards, and Article ~~4.D.8.D~~
- 40 4.B.10.B.7.d, Performance Guarantee Requirements.
- 41 **10) Wetlands**
- 42 Excavation activities within jurisdictional wetlands that have been issued permits
- 43 pursuant to Wetlands Protection requirements or have been issued a permit for
- 44 wetland impacts through the Environmental Resource Permit (ERP) process by DEP,
- 45 USACE, SFWMD, or any other agency with ERP delegation for PBC. [**Ord. 2006-**
- 46 **004**]
- 47 **11) Agricultural Ditches**
- 48 Agricultural ditches supporting vegetation production which meet the standards of
- 49 bona fide agriculture (i.e. groves, row crops, hay, and tree farming) constructed solely
- 50 in uplands that are less than six feet in depth from OWL. These ditches shall not
- 51 connect to canals of conveyance or waters of the State without the appropriate
- 52 Federal, State, and Local approvals and permits.
- 53 **12) De Minimis Impact**
- 54 Those projects for which ERM and PZB approval is necessary and both departments
- 55 determine that there will be no significant adverse environmental or land use impacts.
- 56 A de minimus determination from one agency does not constitute approval by the
- 57 other.
- 58 **13) Canals of Conveyance**
- 59 Canals of conveyance that require permits from SFWMD, USACE, DEP, or ERM
- 60 pursuant to Wetlands Protection requirements. [**Ord. 2006-004**]
- 61 **14) Excavation by Public Agencies**
- 62 a) Excavation performed by or special districts created by special legislative act
- 63 governed by the BCC, provided such excavation complies with the following:
- 64 [**Ord. 2008-037**]
- 65 (1) solely under the jurisdiction, authority, and control of PBC, or the applicable
- 66 district. [**Ord. 2008-037**]
- 67 (2) completed, operated, and maintained in perpetuity by PBC, or the applicable
- 68 special district, [**Ord. 2008-037**]

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- (3) an official part of the operation and function of PBC, or the applicable special district. [Ord.2008-037]
- (4) In order to be exempt under this provision, the PBC Department or applicable district shall: [Ord. 2008-037]
 - (a) schedule and conduct a public hearing; the notice of the public hearing shall be published at least seven days prior to the hearing, in a newspaper of general circulation,
 - (b) provide written notice of the intent to engage in excavation activities subject to a permit issued by the SFWMD or the FDEP to the Executive Director of PZB and the Director of ERM at least 30 days prior to the commencement of construction activity, and, [Ord. 2008-037]
 - (c) provide written notification of the public hearing required ~~by this subsection above~~ to the Executive Director of PZB and the Director of ERM at least 30 days prior to the public hearing.
- (5) For excavations greater than the maximum depth listed in Article ~~4.D.5.A.2 4.B.10.C.1.c~~ and Article ~~4.D.5.B.6 4.B.10.C.2.g~~, the chloride and TDS requirements shall apply. [Ord. 2008-037]

b. Excavations, Canals, Impoundments

Excavations, canals, impoundments, regional stormwater treatment areas, and related projects to enhance water quality, water supply, environmental quality, and natural resources operated by the SFWMD, ACOE, or water control districts or improvement districts created pursuant to F.S. Chapter 298 and within PBC. [Ord. 2008-037]

Section 65. Supplemental Application Requirements

Aa. Content of Application

All Type ~~1~~B, Type ~~2~~, Type ~~3~~A and Type ~~3~~B excavations shall supplement the applicable application requirements with the material and information listed below:

1. Statement

Application listing the nature of the excavation operation, including but not limited to ~~the~~:

- a. amount and type of materials to be excavated;
- b. duration of the excavation activity and reclamation activity;
- c. the proposed method of excavation;
- d. the amount of fill to remain on site;
- e. if permitted, the amount of fill to be removed from site; and,
- f. intent to comply with Article 9.A, Archaeological Resources Protection.

2. Site Plan

A site plan depicting:

- a. Boundaries, dimensions and acreage of the site and excavated surface area(s);
- b. All existing and proposed improvements including easements, streets, weigh stations, and other structures;
- c. Setbacks and separations;
- d. Preservation areas;
- e. Water table elevations, including Ordinary Water Level.

Reason for amendments: [Zoning - ERM]
Delete Vegetation Permit and Aerial standards applicable to excavation types 1B, 2, and 3. Vegetation permits, known now as vegetation approvals are regulated by Art. 14.C, Vegetation Preservation and Protection, which are applicable to excavation types requiring Development Review Officer (DRO) review. Aerials are no longer necessary as they are now on-file.

~~3. Vegetation Permit~~

~~A vegetation permit application pursuant to Article 14.C, Vegetation Preservation and Protection.~~

~~4. Aerial~~

~~An aerial at a scale of 1:200 or better, clearly depicting the site and phase lines.~~

Reason for amendments: [Zoning - ERM]
1. Type 2 Excavation are not be subject to the same application requirements pertaining to Type 3 Excavation. This is due to the difference in the intensity of the use. Type 2 Excavation is being deleted from the " Additional Applicatin Requests" title that contains the application requirements for Type 3 Excavation. Specific application requirements for Type 2 are listed in Art. 4.B.10.C.4.
2. Consolidate two consecutive sections of the Code that contains application requirements applicable to Type 3 Excavation.

Bb. Additional Application Requests for ~~Type II~~, Excavation Type ~~3~~A and Type ~~3~~B

All applications for ~~Type II~~, Type ~~3~~A and Type ~~3~~B excavations shall require the additional information listed below.

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1) Soil Statement

A statement certified by an engineer indicating the type of soils to be excavated and that the soils are suitable for road or structural fill construction or the soil contains excessive amounts of silt, rock, or muck.

2) Site Plan

A site plan depicting:

- a. Article ~~4.D.8.A~~ 4.B.10.B.7.a, Operational Standards and Requirements, as applicable; ~~and~~
- b. Equipment storage, and stockpile areas, including sizes and heights; ~~and~~
- c. Location of grading, sorting, crushing and similar equipment necessary for the operation and distribution of excavated material. [Relocated from below Art. 4.B.10.B.5.c.1)a), Additional Application Requests for Type 3A and Type 3B]

3) Landscape Plan

A landscape plan indicating the buffers and reclamation planting required.

4) Cross Sections

Cross Sections delineating compliance with the following requirements, as applicable:

- a) Article ~~4.D.8.B~~, 4.B.10.B.7.b, Construction Standards;
- b) Article ~~4.D.8.C~~ 4.B.10.B.7.c, Reclamation Standards; and
- c) Buffer details.

5) Operations Plan

An operations plan shall be submitted in the form of a statement and include the methods of material extraction, on site processing, including erosion and sediment control methods, and particulate matter control. The plan shall also delineate how impacts from hauling operations will be controlled.

Reason for amendments: [Land Development] Relocate Radius of Impact definition to a section that currently contains the terminology instead of keeping it under an unrelated standard that is being proposed to be deleted.

6) Haul Route Plan

A map indicating all possible proposed haul routes within the radius of impacts ~~as defined in Article 4.D.5.E.6, Use Approval and Procedures. Radius of impact is defined as the primary street system commencing at the access point of the excavation site and extending out along all streets in all directions to the closest arterial or plan collector street. [Partially relocated from Art. 4.B.10.B.7.a.10).b), Permit Required]~~

~~Cc. Additional Application Requests for Type III3A and Type III3B~~

~~All applications for Type III3A and Type III3B Excavation shall require the additional information listed below.~~

~~1) Site Plan~~

~~A site plan depicting:~~

- ~~a. Location of grading, sorting, crushing and similar equipment necessary for the operation and distribution of excavated material. [Relocated above to Art. 4.B.10.B.5.b.2), Site Plan (Related to Additional Application Requests for Excavation Type 3A and Type 3B)]~~

~~2) Additional Information~~

~~a) Report Schedule~~

~~Report Schedule, pursuant to Article ~~4.D.8.E~~ 4.B.10.B.7.e, Maintenance and Monitoring.~~

~~b) Location Map~~

~~Surrounding uses map depicting the location of the outer boundary of area to be excavated and distances to surrounding land uses; including all residences within the applicable specified distance in the separation standards in Article ~~4.D.5.E.8~~ 4.B.10.C.5.i, Compatibility Standards.~~

~~c) Phasing Plan~~

~~A phasing plan and tabular data depicting acreage, location, sequence of operations and schedule of reclamation requirements.~~

~~d) Tree Survey~~

~~A tree survey, as required by Article ~~4.D.8.C.4.d~~ 4.B.10.B.7.c.4)d, Calculating Planting Requirements.~~

Section 76. Notice of Intent to Construct

All applications for Agricultural, WCAA, Type ~~II2~~ excavation, and Type ~~III3~~ mining activities shall submit a Notice of Intent to Construct in accordance with the provisions below:

Aa. Notice of Intent

Prior to commencement of any on-site excavation or mining activities, a Notice of Intent to Construct shall be submitted to and receive written approval from ERM.

Bb. Contents of Notice of Intent to Construct

Notes:

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The following information shall be included with the completed Notice of Intent to Construct form:

- 1) paving and Drainage plans, if applicable;
- 2) preliminary plat, if applicable, and restrictive covenant, pursuant to Article ~~4.D.8.C.5~~ 4.B.10.B.7.c.5), Area of Record;
- 3) Article ~~4.D.8.C.3~~ 4.B.10.B.7.c.3), Littoral Planting Reclamation Standard; [Ord. 2005 – 002]
- 4) Master Plan, showing all phases of development, if applicable; and, [Ord. 2005 – 002] Items 1 and 2 (preliminary plat) shall be signed and sealed by a certified engineer or surveyor as applicable, recognized and approved by the Florida Department of Professional Regulation (FDPR).
- 5) methods of stormwater pollution prevention if construction of the project may result in an area of exposed soil greater than one acre subject to Federal National Pollution Discharge Elimination System (NPDES) stormwater regulations, a copy of the on-site Stormwater Pollution Prevention Plan shall be submitted as part of the permit application. [Ord. 2005 – 002]

Cc. Agriculture Excavation

All Agricultural and WCAA excavation shall submit a detailed explanation of the proposed bona fide agricultural use. This explanation shall demonstrate consistency with applicable industry standards and shall satisfy the definition requirements of bona fide agriculture pursuant to Art. 1.I, Definitions and Acronyms.

Dd. Type III Exceptions

A Type III application shall include documentation of an approved for Class A Conditional Use pursuant to Article 2.B, Public Hearing Process.

Reason for amendments: [Land Development] Land Development is no longer issuing haul permits for several reasons, including that only rights of way maintained by Palm Beach County are eligible by ordinance to receive a right-of-way permit. Many of the roads utilized for haul routes are under State or Municipal control and the permittees cannot be held accountable for road damage due to lack of proof.

Ee. Written Approval

ERM shall issue a written approval to the applicant within 30 days upon receipt of a Notice of Intent to Construct and appropriate fee with all information necessary to demonstrate that the provisions of this Section will be met, and confirmation by ~~The the~~ Land Development Division that all necessary ~~haul permits~~ approvals for County R-O-Ws have been issued.

Section 87. Technical Standards

Aa. Operational Standards and Requirements

All excavation types shall comply with the following operational standards, unless specifically exempt or prohibited pursuant to this Section.

1) Hours of Operation

All excavation and hauling activity, except dewatering, shall only occur between the hours of 7:00 A.M. and 7:00 P.M. Monday through Friday, unless otherwise specified in this Section.

2) Objectionable Odors

The excavation activity shall be conducted in such a manner as to prevent the occurrence of odors which can be detected off the premises.

3) Emission of Fugitive Particulate Matter

Excavation operations, including hauling activity, shall be conducted to prevent the emission of dust or other solid matter into the air or onto adjacent properties pursuant to the smoke, emissions and particulate matter provisions in Article 5.E, Performance Standards, and Rule 62-296, F.A.C.

4) Existing Topsoil

Where feasible, existing topsoil shall be stored and redistributed on site to provide adequate growing conditions for the revegetation of plant species. Where such storage is not feasible, the area shall be restored with soil of an equal or better quality than that of the excavated topsoil and be redistributed to provide adequate growing conditions.

5) Equipment Storage, Maintenance and Service Areas

Equipment storage, maintenance and service areas shall be setback a minimum 200 feet from all property lines abutting a residential district or use. The equipment storage area shall be designed such that noise generated by the equipment is muffled in order to comply with the noise performance standards in Article 5.E, Performance Standards.

6) Regulated Substances

All storage and use of regulated substances shall comply with local, state, and federal regulations. All regulated substance dispensing areas shall comply with Best Management Practices. Any spill of any regulated substance shall be reported to the

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PBCHD within one hour and to ERM within one hour or at the beginning of the next business day.

7) Dewatering

Dewatering shall not be allowed unless permitted by a State agency, Federal agency, the SFWMD, or the dewatering operation is in compliance with conditions of F.A.C. 40E-20.302(3). If dewatering is permitted, pumps shall be located, submerged, buried, or encased in an insulated structure in order to comply with the noise standards in Art. 5.E, Performance Standards. **[Ord. 2005 – 002]**

8) Access to Public Prohibited

Signs shall be posted prohibiting access to the general public while excavation and reclamation activity is being conducted.

9) Retail Sale of Material

The retail sale of excavated material shall not be permitted on site.

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Reason for amendments: [Land Development] Land Development is no longer issuing haul permits for several reasons, including that only rights of way maintained by Palm Beach County are eligible by ordinance to receive a right-of-way permit. Many of the roads utilized for haul routes are under State or Municipal control and the permittees cannot be held accountable for road damage due to lack of proof.

10) ~~Hauling Standards~~

a) ~~General~~

- (1) All trucks hauling material from sites that permit off-site removal shall be covered to prevent debris and fill from spilling onto the roadway.
- (2) The hauler shall employ measures acceptable to the PBCHD, and any applicable road maintenance authority, to ensure that roads are properly maintained and kept free of fugitive particulate matter.
- (3) The BCC may require special conditions, including, but not limited to:
 - ~~a) construction of turn lanes and other roadway improvements necessary to provide safe traffic movement;~~
 - ~~b) requirement to obtain a haul permit from the DEPW in accordance with the procedures herein.~~
- (4) All vehicles used to haul excavated material shall use the approved haul routes. Vehicles shall not use local residential streets to access arterial or collector streets.

b. ~~Permit Required~~

~~The BCC may require that the petitioner obtain a haul permit for all streets within the radius of impact, except for arterial or collector streets. For the purpose of this Section, radius of impact is defined as the primary street system commencing at the access point of the excavation site and extending out along all streets in all directions to the closest arterial or plan collector street. [Partially relocated to Art. 4.B.10.B.5.b.6), Haul Route Plan]~~

c. ~~Contents of Application~~

~~A haul permit application shall include, but not be limited to, the following:~~

- ~~1) the name and address of the applicant and owners of the property;~~
- ~~2) the legal description of the property;~~
- ~~3) a map showing all haul routes from the excavation site to the nearest major non-residential streets; and~~
- ~~4) any other material as required by the Director of Land Development as deemed reasonable and necessary to evaluate the application.~~

d. ~~Guarantee Required~~

~~A guarantee for road maintenance and repair shall be required and shall be released as set forth in Article 4.D.8.D, Performance Guarantee Requirements, for all affected streets as required herein.~~

e.b) ~~Street Condition Assessment Executed Agreement~~

~~The haul permit application shall include BCC or the County Engineer may require an executed agreement between the applicant and the County Engineer and other applicable road maintenance authorities documenting and assessing which may include but not be limited to documentation of the existing conditions of the streets within the radius of impact, as defined in Art. 4.B.10.B.5.b.6), Haul Route Plan. The assessment agreement shall include a description of the hauling operations including but not limited to the number of trips (as approved in the original Development Order), duration of excavation and hauling activity, truck size and weights and the existing conditions of all possible streets designated as haul routes, as well as any requirements for periodic inspections, financial guarantees and the applicant's other responsibilities.~~

f. ~~Designation of Haul Routes~~

~~Proposed haul routes shall have adequate structural strength to accommodate level of proposed trucking activity. Construction of turn lanes and improvements to the roadways may be required to accommodate the level of proposed truck activity. The proposed route and hours of travel shall be approved based on the size and nature of the excavation operation and the type of trucks involved.~~

g. ~~Issuance of a Haul Permit~~

~~A haul permit with designated haul routes shall be obtained from the Land Development Division prior to issuance of written approval by ERM of the applicant's Notice of Intent to Construct.~~

h. ~~Periodic Inspections~~

~~Every six months, for the duration of the project, commencing on the date that original agreement was executed, the applicant shall schedule an inspection with the County Engineer and/or all applicable road maintenance authorities to evaluate and document road deterioration and needed repairs. The County Engineer or applicable road maintenance authority may request a periodic~~

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~~inspection at any time, if deemed necessary to assess the condition of the street
or if repairs are needed to ensure the safety of the public.~~

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~~i. Responsibility of Applicant~~

~~It shall be the applicant's responsibility to maintain all minor non-residential streets in a safe, operable condition, as determined by the County Engineer, for the duration of the project. In addition, when the excavation activity is completed, the applicant shall restore the streets to its original condition or to a better condition, which existed at the time excavation activity commenced.~~

~~11) Phasing~~

In the event the excavation activity is conducted in phases, the phasing plan required by Article ~~4.D.8.A~~ 4.B.10.B.7.a, Operational Standards and Requirements, shall be subject to Article 2.E, MONITORING, Table 2.E.3.B, Time Limitation of Development Order for Each Phase, and the requirements in Article ~~4.D.8.C~~ 4.B.10.B.7.c, Reclamation Standards. All excavation types, except Type ~~H3A~~ and Type ~~H3B~~ shall comply with Article 2.E, MONITORING, which limits the project to two primary phases for the purposes of monitoring commencement of the Development Order. Additional sub-phases may be permitted for each primary phase for the purposes of conducting the excavation activity in accordance with this Section. For Type ~~H3A~~ and Type ~~H3B~~ excavations, the number of phases and the duration of each phase shall be established as a condition of approval. When establishing the condition of approval for the number and duration of each phase, the BCC shall consider the size of the proposed excavation project, existing and proposed surrounding land uses, surrounding FLU designations, and other pertinent information.

~~12) Sound Insulation~~

All machinery, heavy equipment and vehicles utilized for excavation and hauling purposes shall be equipped with double mufflers to reduce airborne noise caused by excavation operations.

~~Bb. Construction Standards~~

All excavation types shall comply with the following construction standards, unless exempt.

~~1) Separation~~

Separations shall be measured from the top of bank of the nearest excavated area to the property line or designated area in any given direction as defined below: Excavation shall not be constructed within:

- ~~a) wellfield Zone 1 or 300 feet from a public water supply well, whichever is more restrictive;~~
- ~~b) 200 feet from a wetland or in a wetland, unless approved by ERM;~~
- ~~c) 300 feet from a Class ~~H1~~ or Class ~~H2~~ Landfill;~~
- ~~d) 300 feet from a site with known contamination;~~
- ~~e) 100 feet from a septic system or sanitary hazard;~~
- ~~f) 100 feet from a potable water well, except for Type ~~H1A~~ and Type ~~H1B~~ excavations; or~~
- ~~g) 200 feet from publicly owned conservation areas, publicly owned preservation areas or environmentally sensitive lands, unless approved by ERM.~~

~~2) Slopes~~

~~a) Slope Angle~~

Slopes for all excavation types with unplanted littoral zone areas shall be no steeper than four feet horizontal to one foot vertical to a minimum depth of minus two feet OWL. Slopes below the minus two feet depth shall not exceed two feet horizontal to one foot vertical or the natural angle of repose for the specific conditions encountered. Grades and slopes shall be constructed in such a manner as to minimize soil erosion and to make the land surface suitable for revegetation. The slopes shall be adequately vegetated with appropriate ground cover from top of bank to edge of water within 30 days of final grading and thereafter maintained to prevent wind and water erosion.

~~b) Slope for Planted Littoral Zones~~

The slope for excavation with planted littoral zone areas shall be no steeper than ten feet horizontal to one foot vertical to a distance of five feet waterward of the designated planted littoral zone area. Shallower slopes are encouraged to promote greater success of the littoral zone plantings. A copy of the record drawings certified by a surveyor or engineer recognized and approved by FDPR shall be submitted to ERM within 30 days following completion of slope construction.

~~(1) Inspection~~

Within 48 hours prior to completion of construction of the required slopes for the planted littoral zones, notification to ERM is required in order to schedule a slope inspection.

~~c) Drainage~~

Overland sheet flow directly into an excavated area shall be minimized. Those areas within a maximum of 50 feet of the excavated lake may discharge run-off

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1 to the lake. This restriction shall not apply to any catchment area discharging
2 runoff to a lake designated as a water management tract and incorporated in an
3 approved stormwater management plan for treatment and control of runoff from a
4 development site, where the boundaries of said catchment are delineated on an
5 approved plan.

6 **3). Final Site Conditions**

7 No sharp declivities, pits, depressions, or debris accumulation shall remain after
8 reclamation. Final grading shall conform to the contour lines and grades on the
9 approved reclamation plan.

10 **Cc. Reclamation Standards**

11 **1). General**

12 **a). Types of Reclamation**

13 Four types of reclamation standards are defined below. Reclamation standards
14 vary based on the type of excavation activity as set forth in Article ~~4.D.4.B.10~~,
15 Excavation Uses.

16 **(1) Excavated Area**

17 This area includes the depth of a lake and all slopes waterward of the top of
18 bank, excluding littoral plantings.

19 **(2) Littoral Planting**

20 This area includes all plantings waterward from edge of OWL or plus one
21 (+1) OWLs.

22 **(3) Upland**

23 This area includes the land area landward of the top of bank and requires
24 that a minimum area of land be maintained or created around the perimeter
25 of an excavated area to preserve future use of the land.

26 **(4) Upland Planting**

27 This area includes all plantings landward of the top of bank and requires
28 stabilization of soil and re-establishment of native upland vegetation.

29 **2). Excavated Area Reclamation Standard**

30 All slopes shall be reclaimed in accordance with Article ~~4.D.8.B~~ 4.B.10.B.7.b,
31 Construction Standards, and in Article ~~4.D.8.C~~ 4.B.10.B.7.c, Reclamation Standards.
32 Areas not required to be stabilized with littoral plantings shall be stabilized and
33 planted with appropriate ground cover from top of bank to the edge of the water. If
34 seeding is used, a minimum of 50 percent coverage shall be required. The depth of
35 the lake and side slopes shall be comply with Article ~~4.D.8.B~~ 4.B.10.B.7.b,
36 Construction Standards.

37 **3). Littoral Planting Reclamation Standard**

38 All Agricultural (excluding WCAA), Type ~~H2~~ and Type ~~H3~~ Excavations, excluding
39 ponds, shall comply with the following littoral zone standards. Exempted excavations
40 within the WCAA shall provide a littoral zone if the land use ceases to be agricultural.
41 **[Ord. 2006-004]**

42 **a). Planted Littoral Zones**

43 Planted littoral zones shall be provided which comprise, at a minimum, an area
44 equivalent to eight square feet per linear foot of shoreline. Creativity in design in
45 the placement of the planted littoral zone is strongly encouraged, such as
46 extended areas in one portion of the lake or at the discharge point. For basins
47 with multiple lakes that are interconnected, littoral zones may be concentrated
48 within one or more lakes so long as the basin as a whole contains the total
49 required littoral area. The planted littoral zone area shall be limited to the area
50 between one foot above OWL and two feet below OWL. If the applicant
51 demonstrates to ERM that the planted littoral area elevations should differ from
52 this requirement based on site specific conditions and based on fluctuations
53 around the OWL, ERM may approve planted littoral area elevations other than
54 those elevations stated above. Requirements for littoral zone planting shall be in
55 addition to any planting for wetland mitigation required by DEP, SFWMD,
56 USACE, ERM or any other agency with wetland jurisdiction. **[Ord. 2005 – 002]**
57 **[Ord. 2006-004]**

58 **b). Vertical Walls**

59 Vertical walls, bulkheads or other means of hardening the shoreline may be
60 allowed, however, for each linear foot of vertical wall, an additional eight square
61 feet of planted littoral zone shall be required. Thus every linear foot of vertical
62 wall shall require 16 square feet of planted littoral zone to be planted.

63 **c). Planting Requirements**

64 The littoral zone shall be provided with a minimum of six inches of a sand topsoil
65 mix to promote vegetative growth for those areas that do not have adequate soil
66 conditions to ensure plant survivorship. The littoral zone shall be planted with at
67 least five species of appropriate native wetland vegetation, with an average
68 spacing of two feet on center or as approved by ERM. The design and species

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used shall be such that the plants have an anticipated minimal 80 percent coverage. This criterion shall be met from the 180-day monitoring period, and in perpetuity. The Director of ERM shall maintain a list of acceptable plant species for use in their appropriate elevations within the littoral zones. The list may be amended for general application as more information becomes available. The list shall be open for public inspection and distribution.

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1 **d) Timing of Planting**

2 Planting of the excavated lake or pond shall occur no later than immediately prior
3 to the issuance of the first certification of occupancy for any lot adjacent to or
4 abutting the bank of that lake. ERM may approve in writing a phasing plan for
5 planting large single lake systems or interconnected multi-lake systems that
6 would allow lake planting to be phased. At all times, applicant is responsible for
7 minimizing erosion of the littoral shelves until the planting is completed. ERM
8 shall be notified within 48 hours prior to completion of the littoral zone planting.

9 **e) Littoral Planting Plans**

10 The plans shall detail the species and numbers of plants to be used, the location
11 and dimensions of the littoral areas, including any compensatory littoral areas, if
12 applicable; typical cross ~~S~~ection of planted littoral zones from lake maintenance
13 easements to the maximum depth of the lake; the location and dimensions of any
14 structure for which a compensatory littoral area is required; the methods for
15 planting and ensuring survival of the plants; and other reasonable information
16 required by the Director of ERM.

17 Projects which are proposed to be conducted in phases, shall include plans
18 which delineate the phases of excavation and shall include guarantees for each
19 phase.

20 The signatory of the plans and specifications shall have a personal familiarity
21 with the site and soil conditions based upon a field review.

22 **4) Upland Reclamation Standards**

23 Upland reclamation standards apply to Type ~~#2~~ and all Type ~~#3~~ excavations only.

24 **a) Reclamation Plan**

25 **(1) General**

26 A site reclamation plan shall be submitted as an integral part of the
27 application for a Type ~~#2~~ or Type ~~#3~~ excavation and shall be approved by
28 DRO prior to commencement of work. Reclamation is required to ensure a
29 viable end use for the excavation site. The plan shall demonstrate
30 compliance with the requirements in Article ~~4.D.8~~ ~~4.B.10.B.7~~, Technical
31 Standards, except for the littoral planting plan which has its own application
32 submittal requirements. However, the reclamation plan submitted to DRO
33 shall indicate the littoral planting areas.

34 **(2) Type ~~#2~~ Excavation**

35 The certified final site development plan shall function as the standards
36 required for the final development plan.

37 **(3) Type ~~#2~~ Excavations Exceeding Off-Site Removal Limitations**

38 As set forth in Article ~~4.D.5.D~~ ~~4.B.10.C.4~~, Type ~~#2~~ Excavation, shall be
39 classified as a Type ~~#3~~A Excavation when the applicant proposes to remove
40 more than ten percent of the fill off-site. Notwithstanding final site plan
41 certification, the final site development plan shall function as the reclamation
42 plan and planting requirements shall be met in accordance with the
43 landscape requirements for the final site development plan. In such cases,
44 the BCC may waive all or modify a portion of the explicit upland reclamation
45 planting requirements defined below based on the ultimate use of the site.
46 The BCC may require that the upland reclamation plantings defined below be
47 incorporated into the open space pedestrian system as defined on the final
48 site development plan.

49 **(4) Type ~~#3~~ Excavations**

50 The reclamation plan for a Type ~~#3~~ ~~e~~Excavation shall comply with the
51 upland reclamation standards in this Section.

52 **b) Perimeter Reclamation**

53 At a minimum, 75 percent of the perimeter of the excavated area shall have a
54 width of 180 feet; and the remaining 25 percent shall have a width of 100 feet. All
55 disturbed and reclaimed areas shall be planted or seeded with a permanent
56 native ground cover to reduce the loss of topsoil due to water and wind erosion,
57 to provide adequate growing conditions for reclamation planting requirements
58 and to prevent the establishment of prohibited plant species.

59 **c) Timing of Upland Reclamation**

60 Reclamation shall occur immediately following the end of excavation or
61 immediately following each phase of excavation, whichever occurs first. Upon
62 commencement of reclamation and rehabilitation of the initial phase of this
63 excavation, the next phase of excavation may commence upon written
64 authorization by DRO. The applicable guarantee must be on file prior to
65 authorization for the commencement of excavation on any subsequent phase.

66 **(1) Timing of Planting**

67 If excavation activity is phased, planting shall occur at the completion of each
68 phase. Planting of the reclaimed upland area should occur during the rainy

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season (June-October), within six months after completion of the excavated area or phase thereof, as applicable. The property owner shall ensure that proper watering and maintenance occurs in order to ensure a successful survival rate. If planting does not occur during the rainy season, then the property owner shall provide irrigation to establish the new plantings. PZB shall be notified 48 hours prior to completion of the upland plantings.

d). Calculating Planting Requirements

In addition to the buffer requirements in Article ~~4.D.5.E~~ 4.B.10.C.5, Type ~~III~~ III Excavations, the following upland planting requirements shall apply.

(1) Sites Supporting Native Vegetation

Calculations to determine the reclamation planting requirements for sites supporting native vegetation shall be based on the existing tree cover. Controlled or prohibited species shall be exempt from this calculation. In addition, any tree species located within the required perimeter buffer area shall also be exempt. If no vegetation exists, the applicant shall demonstrate that the site was cleared before 1986 or has been issued and has complied with a vegetation removal permit.

A certified tree survey shall be submitted by either a landscape architect, forester, land surveyor, or engineer who is registered in the State of Florida. This count shall include all existing on-site native trees with a trunk diameter three inches or greater to be measured at four and one-half feet above the ground. The number of existing trees meeting this criterion shall then be divided by the total number of acres to obtain a tree-per-acre figure. The number of replacement trees to be planted at the time of final site reclamation shall be determined by multiplying the trees-per-acre figure by the number of required reclaimed land acres remaining at the time of final site reclamation. Credit shall be given by PZB for existing trees greater than three inches in diameter which are relocated and/or adequately protected during excavation. Any trees relocated and/or protected shall be deducted from the replacement tree count requirement. The trees to be replanted shall be native and a minimum eight feet high. In addition, two understory 18 inch high seedlings shall be planted for each tree required to be planted.

e). Upland Planting Reclamation Standards

The upland reclamation plantings may be clustered in one area of the reclaimed upland area or dispersed throughout the reclaimed upland area. No minimum or maximum area is required, except as a condition of approval, as long as the vegetation is planted in accordance with standards set forth in Article 7.F, Perimeter Buffer Landscape Requirements, and Article 14.C, Vegetation Preservation and Protection. A minimum of five native plant species shall be used to fulfill the planting requirements. The design and species used shall be such that the plants have an anticipated minimal survival rate of at least 80 percent at the end of each monitoring period.

f). Plan Requirements

The upland reclamation planting plan shall be submitted to the DRO simultaneously with the application for the final site plan.

(1) The signatory of the plans and specifications shall have personal familiarity with the site and soil conditions based upon a field review. The plans shall be signed and sealed by a professional Landscape Architect certified by the Florida Department of Professional Regulation.

(2) At a minimum, the plans shall detail the location, species and numbers of plants to be used, and the methods for planting and ensuring survival of the plants, and other reasonable information required by ERM.

g). Phased Projects

In the event that upland reclamation is to be conducted in phases, the following additional requirements shall apply:

(1) A phasing plan shall be submitted indicating:

(a) exact acreage of each phase;

(b) proposed duration of excavation and reclamation of each phase; and

(c) number of trees to be planted.

5). Area of Record

All reclaimed littoral and upland planting areas shall be identified graphically and in writing on a separate restrictive covenant. The graphic shall be signed and sealed by a ~~C~~certified engineer or surveyor as applicable, recognized and approved by the FDPR. If a plat is required, pursuant to Article 11, SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS, all planted littoral zones and upland reclamation planting areas shall be identified by reference to the restrictive covenant. The plat and restrictive covenant shall be reviewed and approved by the Zoning Division, ERM, and the County Attorney's office prior to recordation. A copy of the plat, if

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1 applicable, and recorded restrictive covenant shall be provided to ERM and PZB,
2 prior to issuance of written approval of the Notice of Intent to Construct. Within 30
3 days following plat recordation, a copy of the recorded plat shall be provided to ERM
4 and Zoning Division.

5 The littoral area and reclaimed upland planting area shall be specifically and
6 separately reserved to the owner, or if applicable, to the property owners' association
7 as its perpetual maintenance responsibility, without recourse to PBC or any other
8 governmental entity or agency. The plat, if applicable, restrictive covenant and
9 property owners' association documents, shall contain the following statement:

10 It is a punishable violation of PBC Laws, Ordinances, Codes, Regulations and
11 approvals to alter the approved slopes, contours, or cross ~~S~~sections or to chemically,
12 mechanically, or manually remove, damage or destroy any plants in the reclaimed
13 areas and planted littoral zone except upon the written approval from the Director of
14 ERM or Zoning, as applicable. It is the responsibility of the owner or property owners
15 association, its successors or assigns, to maintain the required survivorship and
16 coverage of the reclaimed upland and planted littoral areas and to ensure on-going
17 removal of prohibited and invasive non-native plant species from these areas.
18

Reason for amendments: [Land Development] Land Development is no longer issuing haul permits for several reasons, including that only rights of way maintained by Palm Beach County are eligible by ordinance to receive a right-of-way permit. Many of the roads utilized for haul routes are under State or Municipal control and the permittees cannot be held accountable for road damage due to lack of proof.

19 **Dd. Performance Guarantee Requirements**

20 **1) General**

21 ERM shall administer guarantee requirements for the excavated area and littoral
22 plantings. The Zoning Division shall administer guarantee requirements for reclaimed
23 upland area, and upland plantings. The Land Development Division shall administer
24 guarantee requirements associated with road maintenance and repair of haul routes
25 if required by the BCC or County Engineer executed agreement.

26 **2) Guarantees Required**

27 The guarantees for phased projects may be bonded separately with approval by the
28 DRO.

29 **a) Agricultural and Type ~~II~~ Excavations**

30 Agricultural and Type ~~II~~ ~~e~~Excavations shall be required to provide a guarantee
31 for the littoral zones. If approved as a Class A conditional use, guarantees ~~shall~~
32 may also be required for the excavated area, upland reclamation (excluding
33 upland plantings) and roadway maintenance and repair.

34 **b) Type ~~III~~ Excavation**

35 Approval of at least five guarantees shall be required for Type ~~III~~ ~~e~~Excavations:

- 36 (1) excavated areas;
- 37 (2) reclaimed upland areas;
- 38 (3) upland planting areas; and,
- 39 (4) littoral zones; ~~and,~~

40 **5c) Approval may be required for Type 3 Excavation for road maintenance and repair**
41 ~~when a haul permit is required in accordance with Article 4.D.8.A, Operational~~
42 ~~Standards and Requirements.~~

43 **3) Execution**

44 The performance guarantee shall be executed by a person or entity with a legal or
45 financial interest in the property. Transfer of title to the subject property shall not
46 relieve the need for the performance guarantee. The seller shall maintain, in full force
47 and effect, the original performance guarantee until it is replaced by the purchaser.

48 **4) Form of Guarantee**

49 The guarantee shall assure the project performs as approved by the BCC and in
50 accordance with the standards of this Code. The guarantee shall take the form of:

- 51 a) A cash deposit or certificate of deposit assigned to PBC;
- 52 b) An escrow agreement for the benefit of PBC;
- 53 c) A performance bond issued by a Florida registered guarantee company which
54 shall be listed on the U.S. Department of Treasury Fiscal Services, Bureau of
55 Government Financial Operations. Said bond may be canceled only upon a 60
56 day written advance notice and acceptance of cancellation by ERM, PZB or Land
57 Development Division, as applicable;
- 58 d) An unencumbered, clean, irrevocable letter of credit which must be executed on
59 a form provided by PBC; or
- 60 e) Unless otherwise approved in writing by ERM, PZB or Land Development
61 Division, as applicable, performance bonds or letters of credit shall be on forms
62 provided by PBC.

63 **5) Amount of Guarantee**

64 **Notes:**

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EXHIBIT D

EXCAVATION USES
SUMMARY OF AMENDMENTS
(Updated 06/04/15)

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- a) **General**
The amount of the guarantees shall be adjusted in accordance with the Consumer Price Index, as provided by the Congressional Budget Office and as approved by the County Attorney's Office.
- b) **Excavated Area**
Guarantee shall be a minimum of 1,000 dollars per acre of permitted excavation area.
- c) **Littoral Zones**
The guarantee shall be a minimum of 10,000 dollars and shall be an amount of no less than 110 percent of the total estimated cost for planting, maintaining, and monitoring the required littoral shelves. ERM retains the option for requesting a second cost estimate for which the performance guarantee is based.
- d) **Reclaimed Upland and Upland Planting Areas**
Guarantee shall be a minimum of 10,000 dollars and shall be an amount of no less than 110 percent of the total estimated cost for reclaiming, planting, maintaining, and monitoring the upland area and required upland planting areas. PZB retains the option for requesting a second cost estimate for which the guarantee is based.

Reason for amendments: Land Development Land Development is no longer issuing haul permits due to inability to hold permittees accountable for road damage due to lack of proof. An Executed Agreement will be required on a case-by-case basis when in the opinion of the BCC or the County Engineer, the Agreement is in the best interest of the public to protect road conditions. Specifics for each Executed Agreement may vary in each case so standard Code language is unnecessary.

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- ~~e) **Roadway Maintenance and Repair**
Streets which require a haul permit in order to be used as a haul route shall be required to post a minimum guarantee in the amount of 50,000 dollars per mile of affected streets within the radius of impact.~~
- 6) **Submittal and Approval of Guarantee**
Except in the case of an application by a political subdivision or agency of the State, all applicants shall submit the guarantee instruments and obtain approval of the guarantee as provided below.
 - a) **Reclaimed Upland Area and Upland Planting Areas**
Guarantees for the reclaimed upland area and upland planting areas shall be submitted with the DRO application and approved prior to DRO certification of the final excavation plan.
 - b) **Excavated Area and Littoral Zones**
Guarantees for the excavated area and littoral zones shall be approved by ERM prior to issuance of written approval of the Notice of Intent to Construct.
 - c) **Road Maintenance and Repair**
When required, Guarantees guarantees for road maintenance and repair shall be approved by the Land Development Division prior to issuance by ERM of the applicants Notice of Intent to Construct.
- 7) **Duration and Release**
The guarantee for the excavated area and upland reclamation area of Type ~~III~~ eExcavations may be reduced once the "as-built" plan is approved. However, the guarantee shall continue to cover the upland planting and littoral planting areas until released by Palm Beach County in accordance with this subsection.
 - a) **Excavated Areas for Type ~~III~~ Excavations**
At the request of the applicant, the guarantees shall be released by ERM, after DRO certification of the final as-built reclamation plan, in accordance with Article ~~4.D.5.E.6~~ 4.B.10.C.5.g, Use Approval and Procedures.
 - b) **Upland Reclamation Area**
At the request of the applicant, the guarantees shall be released by PZB, after DRO certification of the final as-built reclamation plan, in accordance with Article ~~4.D.8.C.5~~ 4.B.10.B.7.c.5, Area of Record.
 - c) **Littoral and Upland Planting Reclamation Areas**
The guarantees shall remain in effect a minimum of 730 days (two years) after reclamation is completed in accordance with all requirements of this Section. Guarantees shall not be released until approved plats or separate instruments are recorded and proof of recordation is provided to ERM and PZB, pursuant to Article ~~4.D.8.D~~ 4.B.10.B.7.d, Performance Guarantee Requirements . Following verification of successful completion of reclamation through approval of the submitted as-builts, area of record, monitoring reports, and site inspection(s) by ERM and PZB, as applicable, guarantees shall be released.
 - d) **Road Maintenance and Repair**

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EXHIBIT D

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- 1 When required, The the guarantee shall be released by the County Engineer and
- 2 any applicable road maintenance authority after certification of the final phase of
- 3 the as-built plan and upon final inspection and acceptance of the repair,
- 4 maintenance and condition of the streets within the radius of impact.
- 5 **8). PBC Use of Guarantee**
- 6 Should PBC find it necessary to use the performance guarantee for corrective work
- 7 or to fulfill the applicant's reclamation, reconstruction or maintenance obligations as
- 8 set forth herein, the applicant shall be financially responsible for all legal fees and
- 9 associated costs incurred by PBC in recovering its expenses from the firm,
- 10 corporation or institution that provided the performance guarantee.
- 11 **Ee. Maintenance and Monitoring**
- 12 The following maintenance and monitoring program is required for all planted littoral
- 13 zones and reclaimed planted upland areas.

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1) Excavation Activity

The applicant shall submit an annual report to the DRO indicating the status of the excavation activity. The report shall include, but not be limited to, the status of:

- a) the current phase(s) of excavation;
- b) all phases of excavation and reclamation activities (including date(s) of completion and anticipated dates of completion);
- c) amount of material extracted and amount of material removed from the site;
- d) condition of perimeter buffers and landscaping; and
- e) status of compliance with conditions of approval and applicable requirements in this Section.

2) Initial Maintenance and Monitoring of Reclaimed Upland Areas and Littoral and Upland Planting Areas

The planted littoral zones and planted upland areas shall be inspected and monitored for at least one year after planting. Equipment storage, maintenance and service areas shall be monitored until completion of the excavation activity for contamination by regulated substances. The maintenance and monitoring program shall comply with the following requirements:

a) Maintenance

Inspections, monitoring, exotic plant species removal and replanting during each monitoring period shall be required to maintain the minimum:

- (1) 80 percent coverage criterion for the planted littoral zone from the 180 day monitoring period; and,
- (2) 80 percent survivorship for the planted upland area from the 180 day monitoring period;

b) Exotic Plant Species

Complete removal of the following plant species from the planted littoral zone and upland areas, as applicable:

- (1) prohibited and invasive non-native plant species as defined by Article 14.C, Vegetation Preservation and Protection; and
- (2) invasive species, such as cattails, primrose willows and water hyacinth.

c) Regulated Substances

Inspections and monitoring of all equipment storage, maintenance and service areas shall be required to ensure the site has not been contaminated by regulated substances. Construction areas shall be maintained in accordance with the "Regulated Substance Best Management Practices for the Construction Industry."

d) Submittals for Monitoring Programs

Submittal of monitoring reports for each monitoring period shall be required. The planted littoral zone reports shall be submitted to ERM and the reclaimed upland planting reports shall be submitted to the Zoning Division. These monitoring reports shall represent the monitoring periods commencing with a time zero report, 90 day, 180 day and 360 day reports.

The time zero monitoring report shall be submitted within 30 days of the initial planting. Each subsequent report shall be submitted within 30 days of the completion of the monitoring period. If following the first year of the maintenance and monitoring period, PBC finds the planted littoral or reclaimed planted upland areas to be in non-compliance with the provisions herein, the land owner or entity having maintenance responsibility may be required by PBC to extend their maintenance and monitoring period, until compliance with the maintenance and monitoring requirements is met.

e) Content of Monitoring Reports

Each monitoring report, including the time zero report, shall assess the species, numbers, and locations of planted littoral zones and reclaimed upland planting areas. The report shall also depict the equipment maintenance, storage and service areas and assess the condition of the ground as a result of possible leakage or spillage of regulated substances. The report shall include multiple photographs (panoramas are preferred) of the site clearly showing these areas. Photographs must be taken at approximately the same location(s) each time.

In addition, the report shall detail the species, numbers and locations of additional plantings that were made to attain the 80 percent survivorship/coverage criteria, if such plantings were necessary.

3) Long-Term Maintenance and Monitoring of Reclaimed Upland Areas and Littoral and Upland Planting Areas

After the first year, the land owner or entity having maintenance responsibility for the planted littoral zone and planted upland reclamation area, shall maintain these areas in the following manner.

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- a) The reclaimed upland areas shall maintain a minimum survivorship of 80 percent, and the planted littoral zone shall maintain a minimum coverage of 80 percent.
- b) Exotic and invasive non-native plant species as defined by Article 14.C, Vegetation Preservation and Protection, such as cattails, primrose willows and water hyacinth, shall be restricted to a coverage of less than ten percent of the required planted littoral zone. No exotic or invasive non-native plant species shall be permitted in the upland areas.

4) Repair, Reconstruction Modification

DRO approval shall be obtained prior to any reconfiguration of the approved lake or reclaimed upland area. Written approval from the Director of ERM shall be obtained prior to modification of the planted littoral zones.

Section 98. Administration and Enforcement

Aa. Administrative Waiver from Construction Criteria for Agricultural, WCAA, Type #2 and Type #3 Excavations

1) Authority and Criteria

Administrative waivers from the slope, depth, or littoral zone standards contained in Article ~~4.D.8~~ **4.B.10.B.7**, Technical Standards, for Agricultural, WCAA, Type #2, and Type #3 Excavations may be granted by ERM in accordance with the standards of this Section. ERM may grant the waivers to an applicant upon demonstration by a preponderance of evidence, that such administrative waivers will not be injurious to the area involved or otherwise detrimental to the public welfare, and that special or unique circumstances exist to justify the administrative waivers based on one or more of the following conditions:

- a) That the literal application of these standards will create an unreasonable hardship and that the special and unique circumstances do not result from the actions of the applicant;
- b) That a request for relief from the littoral planting requirements include an alternative plan with a contribution to the Pollution Recovery Trust Fund of twice the amount calculated by the formula for a guarantee located in ~~4.D.8.D.5.c.~~ **Article 4.B.10.B.7.d.5)c)**, Littoral Zones and for review and approval by the Director of ERM. If the littoral zone had been depicted on the site or master plan, a modification of the plan shall be processed in order to delete the littoral zone from the plan; **[Ord. 2013-001]**
- c) That appropriate technology and methods will be used to ensure consistency with the intent of the Code; or
- d) The proposed administrative waiver will not be adverse to the general intent and purpose of this Section.

2) Limitations

No administrative waiver shall be approved for those separation items in Article ~~4.D.8.B~~ **4.B.10.B.7.b**, Construction Standards, unless the item specifically allows approval by ERM; nor for any mining or excavation operation location which will reduce hydraulic recharge distances to a public water supply well in excess of two percent; nor within 200 feet of a publicly-owned conservation area, environmentally sensitive land area, or publicly-owned preservation area. An administrative waiver may be granted for littoral areas within a lake supporting bona-fide agricultural operations. If the land use changes from bona-fide agricultural use, the littoral requirements for the new land use shall be required.

3) Review Process

The request shall be included with the Notice of Intent to Construct, unless a Notice of Intent to Construct has been previously approved. An appropriate fee and drawings of sufficient detail shall be required in order to provide the information needed to determine if granting approval of the waiver is appropriate. The application and drawings, excluding littoral planting plans, shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project.

- a) Upon receipt of a request to deviate from the Construction Criteria, ERM shall have 30 days to request any additional information.
- b) Within 30 days of receipt of the requested additional information, ERM may only request information needed to clarify the additional information supplied or to answer new questions raised by or directly related to the additional information.
- c) If ERM does not ask for additional information within thirty 30 days of receipt of the request, the request shall be deemed complete upon date of receipt.
- d) If an applicant fails to respond to a request for the fee or any additional information within 60 days, the request may be denied without prejudice. However, ERM may grant an extension of time as is reasonably necessary to fulfill the request for additional information. ERM action shall be approval or denial, and shall be included with the issued written approval of the Notice of Intent to Construct.

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Reason for amendments: [ERM/Zoning]	
1.	Provide authority to the Director of Code Enforcement to ensure compliance with the excavation regulations when referred by the Director of the Environmental Resource Management.
2.	Delete reference to Florida Administrative Code (F.A.C.) 40E-20.302, Types of General Water Use Permits as it was repealed on July 14, 2014.

Bb. Violations, Enforcement, and Penalties

1). Violations

Violations not related to conditions imposed by the Notice of Intent to Construct excavation, may be referred to the Director of Code Enforcement as determined by the Director of ERM.

For each day or portion thereof, it shall be a violation of this Section to:

- a). fail to comply with a requirement of this Section, a condition of an approval or an authorized exemption granted hereunder;
- b). fail to comply with the design specifications or littoral planting plan submitted with the Notice of Intent to Construct for which a written approval was issued by ERM;
- c). alter or destroy the approved depths, slopes, contours, or cross-sections;
- d). chemically, mechanically, or manually remove, damage, destroy, cut, or trim any plants in the littoral zones, except upon written approval by the Director of ERM;
- e). dredge, excavate, or mine the lake or littoral zones without prior receipt of approval(s) from ERM and/or PZB;
- f). cause water quality violations in excess of the standards contained in F.A.C. Chapter 62-302; or
- g). dewater in Type 1(A), Type 1(B); and Agricultural ~~e~~Excavations unless otherwise permitted by a State agency, Federal agency, or the SFWMD, or the dewatering operation is in compliance with the conditions of F.A.C. 40E-20.302(3). [Ord. 2005 – 002]

Cc. Enforcement

Violation of each subsection provision of this Section, any conditions of approval, or any of those violations listed in ~~Art. Article 4.D.9.B~~ 4.B.10.B.8.b, Violations, Enforcement and Penalties, above, shall be deemed a separate violation and may be subject to fines up to 1,000 dollars per day per violation. In order to enforce compliance with the provisions of this Section, ERM, PZB and the County Engineer may issue a cease and desist order or require that future DRO certifications be denied or a building permit or C.O. be withheld. Violations of the provisions of this Section shall be punishable by one or more of the following: [Ord. 2005 – 002]

- 1). Quadruple permit fees shall be assessed if permits were not obtained for violations involving activities which would otherwise have been permissible, as determined by ERM, PZB, or the Land Development Division.
- 2). This Section shall be enforced through the remedies as outlined in Article 10, Enforcement. However, PBC is not prevented from enforcing the provisions of this Section by any other measures allowable by law, including but not limited to, F.S. Chapters 125 and 162, as may be amended.
- 3). If the applicant has violated the provisions of this Section, or a condition of approval, staff may place the subject Development Order back on a BCC agenda for reconsideration in accordance with the provisions of Article 2.E, Monitoring, and Article 10, Enforcement.

Dd. Restoration

Damage to upland reclamation areas, planted littoral shelves, littoral plants and/or streets may result in an order to restore to the approved conditions. Excavation operations that have occurred without approval and receipt of written approval from ERM, PZB or the County Engineer, as applicable may result in an order to restore the site or streets in the radius of impact to preexisting conditions.

Ee. Additional Remedies

In addition to the sanctions contained herein, PBC may take any other appropriate legal action, including but not limited to, administrative action, and requests for temporary and permanent injunctions, to enforce the provisions of this Section.

Ff. Use of Collected Monies

All monies collected by ERM as civil penalties for violations of this Section shall be deposited in the PBC Pollution Recovery Trust Fund.

Reason for amendments: [Zoning] Delete redundant appeals language to reference the specific sections of the Code that addresses appeals to decisions made by the Zoning Director, the County Engineer and the Director of ERM based on the authority granted in Article 1.B.1.A, Authority to interpret Excavation types.

Gg. Appeals

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An applicant may appeal a final determination made by: the appropriate authority that interprets Excavation Uses as contained in Art. 1.B.1.A, Authority, based on the appeal process in Art. 2.A.1.S, Appeal.

~~1. Director of ERM~~

~~Appeal shall be made to the Hearing Officer. The applicant shall comply with the following appeal procedures. [Ord. 2011-016]~~

~~a. Submittal~~

~~An appeal must be made within 20 days of the applicant's receipt of the final action.~~

~~b. Hearing~~

~~Each hearing shall be held within 60 days of submittal of all documents which the Hearing Officer deems necessary to evaluate the appeal. At the conclusion of the hearing, the Hearing Officer shall orally render its decision (order), based on the evidence entered into record, the decision shall be stated in a written order and mailed to the applicant not later than ten days after the hearing. Written order of the Hearing Officer shall be final. [Ord. 2011-016]~~

~~2. Director of Zoning or Director of Land Development~~

~~Appeal shall be made to the appropriate appeals board as provided in Article 2.G, DECISION MAKING BODIES as applicable. [Ord. 2011-016]~~

~~3. Judicial Relief~~

~~An applicant or ERM may appeal a final written order of the Hearing Officer within 30 days of the rendition of the written order by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for PBC, Florida. [Ord. 2011-016]~~

C. Definitions and Supplementary Use Standards for Excavation Uses

Before commencement of any excavation, approval shall be obtained pursuant to the procedures and standards defined in this Section.

Reason for amendments: [Zoning] Introduced the definition of Agricultural Excavation, Type 1A Excavation, Type 1B Excavation and Type 2 Excavation as they were inadvertently removed from the Code via Ordinance 2003-067. The definitions will assist in differentiating between excavation types as well as creating consistency in the construction of the Code since all other uses in Article 4 utilize definitions.

Section 5- Excavation Standards

A1. Agricultural Excavations

a. Definition

Excavation necessary to support bona fide agricultural production operations, including but not limited to the creation of ponds or lakes to construct accessory structures supporting the agricultural use, livestock ponds, canal laterals and roads, but excluding customary agricultural activities such as plowing and maintenance of canals and roads.

4b. Separation and Setbacks

In addition to the separation requirements in Article ~~4.D.5.A~~ **4.B.10.C.1**, Agricultural Excavations, shall maintain a minimum setback of 100 feet, measured from the inside edge of the lake maintenance easement to any adjacent property line.

2c. Maximum Depth

Excavation activity shall not exceed 20 feet from OWL. This maximum depth may be exceeded if approved by ERM in accordance with Article ~~4.D.9~~ **4.B.10.B.8**, Administration and Enforcement, provided the applicant adequately ensures that chloride levels shall not exceed 250 parts per million (PPM) and Total Dissolved Solids (TDS) either does not exceed 500 PPM or is in accordance with Chapter 62.520.420(2) F.A.C. in the excavated lake based on ground water sampling prior to construction, or the applicant may provide reasonable assurance that the ambient off-site chloride and TDS levels will not be degraded based upon background levels. Additional sampling may be required by ERM during and after construction. [Ord. 2008-037]

3d. Sediment Sump

A sediment sump may be constructed at the excavated lake or pond inlet to a depth of 25 feet OWL. A sump shall not exceed five percent of the mined lake area.

4e. Reclamation, Maintenance and Monitoring

Agricultural ~~e~~Excavations shall comply with the excavated area, and littoral zone reclamation requirements of Article ~~4.D.8.C~~ **4.B.10.B.7.c**, Reclamation Standards, and Article ~~4.D.8.C.2~~ **4.B.10.B.7.c.2**, Excavated Area Reclamation Standard, Article ~~4.D.8.C.3~~ **4.B.10.B.7.c.3**, Littoral Planting Reclamation Standard, Article ~~4.D.8.C.5~~ **4.B.10.B.7.c.5**, Area of Record, and ~~4.D.8.E~~ Article **4.B.10.B.7.e**, ~~the~~ Maintenance and

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Monitoring requirements, and Article ~~4.D.9.E~~ 4.B.10.B.8.e, Additional Remedies, unless waived by ERM.

5f. Use Approval and Procedures

All applications for ~~a~~Agricultural ~~e~~Excavation shall include a detailed explanation of the proposed bona fide agricultural use. This explanation shall demonstrate consistency with applicable industry standards and satisfy the definition requirements of bona fide agriculture pursuant to Article 1.I, Definitions and Acronyms. The excavation shall be the minimum necessary to implement the proposed bona fide agricultural use. [Ord. 2008-037]

a.1) Two Acres or Less

Unless exempt, DRO review and approval shall be required for ~~AG~~ Agricultural ~~E~~Excavation consisting of two acres or less in surface area pursuant to Article 2.D.1, Development Review Officer~~r~~. The DRO shall review for compliance with the standards of this Section and may approve the application with or without conditions.

b.2) Greater Than Two Acres

Agriculture ~~E~~Excavation activity greater than two acres in surface area shall be subject to approval as a Class A Conditional use pursuant to Article 2.B, Public Hearing Process, and this Section. The BCC may permit off-site removal and apply the appropriate compatibility standards of Article ~~4.D.5.E~~ 4.B.10.C.5, Type ~~III~~ Excavations.

e.3) Additional Review

See ~~Section 5.F.6~~ Article 4.B.10.C.5.g.1) for Excavation Pre-application Checklist. [Ord. 2008-037]

6g. Guarantee Requirements

Agricultural ~~e~~Excavation shall comply with the Guarantee requirements pursuant to Article ~~4.D.8.D~~ 4.B.10.B.7.d, Performance Guarantee Requirements.

7h. Notice of Intent to Construct

In accordance with Article ~~4.D.7~~ 4.B.10.B.6, Notice of Intent to Construct, shall be required.

8j. WCAA Excavations

a.1) Operational and Construction Standards

An application for WCAA ~~e~~Excavation shall comply with the standards in Article ~~4.D.8.A~~ 4.B.10.B.7.a, Operational Standards and Requirements, and Article ~~4.D.9.B~~ 4.B.10.B.8.b, Violations, Enforcement, and Penalties, ~~and~~ except for hours of operation.

b.2) Separations and Setbacks

In addition to the separation requirements in Article ~~4.D.8.B.4~~ 4.B.10.B.7.b.1), Separation, a WCAA ~~e~~Excavation shall maintain a minimum setback of 50 feet measured from the inside edge of the lake maintenance easement to any adjacent property lines.

e.3) Depth

The maximum depth for the excavated lake or pond shall not exceed 15 feet from OWL due to chloride and TDS considerations. This maximum depth may be exceeded if approved by ERM in accordance with Article ~~4.D.9-4.B.10.B.8~~, Administration and Enforcement, provided the applicant adequately ensures that chloride levels shall not exceed 250 parts per million (PPM) and Total Dissolved Solids (TDS) does not exceed 500 PPM or is in accordance with Chapter 62.520.420(2) F.A.C. within the excavated lake or pond based on ground water sampling prior to construction. Additional sampling may be required during and after construction. [Ord. 2008-037]

d.4) Sediment Sump

A sediment pump may be constructed at the excavated lake or pond inlet to a depth of 25 feet OWL. However, this sump shall not exceed five percent of the mined lake area.

e.5) Approval and Procedures

All applications for WCAA ~~e~~Excavation shall include a detailed explanation of the proposed bona fide agricultural use. This explanation shall demonstrate consistency with applicable industry standards and shall satisfy the definition requirements of bona fide agriculture pursuant to Art. 1.I, Definitions and Acronyms. Excavation shall be the minimum necessary to implement the bona fide agricultural use. [Ord. 2008-037]

~~4a)~~ Additional Requirement. See ~~Section 5.F.6~~ Article 4.B.10.C.5.g.1), ~~for~~ Excavation Pre-application Checklist. [Ord. 2008-037]

f6) Notice of Intent to Construct

In accordance with Article ~~4.D.7~~ 4.B.10.B.6, Notice of Intent to Construct, shall be required.

Notes:

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B2. Type ~~1~~A Excavation

a. Definition

Excavation necessary to obtain fill for the construction of a single family dwelling or an accessory structure to a single family dwelling on a lot.

1b. Lot Size

A minimum of one acre.

2c. Excavated Surface Area

The maximum surface area of all excavation on the premises shall be less than two-tenths acre or (8,712 square feet).

3d. Off-site Removal

Off-site removal of extracted material is prohibited.

4e. Separation and Setbacks

In addition to the separation requirements in Article ~~4.D.8.B.4~~ 4.B.10.B.7.b.1), Separation, Type ~~1~~A Excavation shall maintain the following minimum setbacks, measured from the inside edge of the lake maintenance easement.

~~a.1~~) 15 feet at the time of construction from any adjacent property line. The top of bank shall be a minimum of five feet.

~~b.2~~) 50 feet from any potable water well.

~~c.3~~) 100 feet from any septic system pursuant to Article 15.A, ECR I Onsite Sewage Treatment and Disposal Systems.

5f. Slope

If a lake excavated prior to June 16, 1992, does not comply with the minimum slope requirements of Article ~~4.D.8.B.2~~ 4.B.10.B.7.b.2), Slopes, a minimum four foot high gated fence completely enclosing the excavated area may be substituted for the required slopes.

6g. Depth

Excavation activity shall not exceed ten feet in depth below OWL.

7h. Reclamation

The applicant shall comply with the following reclamation requirements prior to issuance of a CO.

~~a.1~~) Compliance with the slope and drainage and reclamation standards of Article ~~4.D.8.B~~ 4.B.10.B.7.b, Construction Standards, shall be required.

~~b.2~~) The property owner shall submit a Certificate of Compliance sealed by a registered Land Surveyor to the Building Division depicting:

~~4a~~) an as-built survey showing the location, size, and depth of the excavated area; and,

~~2b~~) in cases where no permanent water body is created, the site plan submitted with the building permit shall serve as the reclamation plan.

8i. Use Approval and Procedures

The request shall be made concurrent with an application for a building permit. Approval shall be issued concurrent with receipt of a building permit for a single family dwelling.

[Ord. 2008-037]

~~a.1~~) Application Requirements

The building permit plans shall be supplemented with the following information: [Ord. 2008-037]

~~4a~~) Site Plan

A general site plan complying with the standards of this Section;

~~2b~~) Statement

A statement estimating the amount of excavated material, in cubic yards; and,

~~3c~~) Notarized Authorization

Notarized authorization from the property owner to excavate.

~~b.2~~) Determination of Sufficiency, Review and Decision

A building permit shall be issued by PZB, with or without conditions of approval, after the application has been determined complete and in compliance with this Section.

C3. Type ~~1~~ B Excavation

a. Definition

Excavation necessary to obtain fill for the construction of a single family dwelling or an accessory structure to a single family dwelling on a lot.

1b. Lot Size

A minimum of two and one-half acres.

2c. Excavated Surface Area

The maximum surface area of all excavation on the premises shall be less than 25 percent of the gross lot area and shall not exceed two acres.

3d. Off-site Removal

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Off-site removal of extracted material is prohibited.

4e. Separations and Setbacks

In addition to the separation requirements of Article ~~4.D.8.B~~ 4.B.10.B.7.b, Construction Standards, Type ~~1~~ eExcavations shall maintain the following minimum setbacks:

~~a.1)~~ 30 feet at the time of construction from any adjacent property line.

~~b.2)~~ 50 feet from any potable water well.

~~c.3)~~ 100 feet from any septic system pursuant to Article 15.A, ECR I Onsite Sewage Treatment and Disposal Systems.

5f. Maximum Depth

Excavation activity shall not exceed 15 feet in depth below OWL.

6g. Reclamation

The applicant shall comply with the following reclamation requirements prior to issuance of a CO.

~~a.1)~~ Compliance with the slope angle, drainage, and reclamation standards Article ~~4.D.8.B~~ 4.B.10.B.7.b, Construction Standards.

~~b.2)~~ The property owner shall submit a Certificate of Compliance sealed by a registered Land Surveyor to the DRO depicting:

~~1a)~~ An as-built survey showing the location, size, and depth of the excavation.

~~2b)~~ In cases where no permanent water body is created, the building permit site plan shall serve as the reclamation plan.

7h. Use Approval and Procedures

The request shall be made concurrent with an application for a building permit. Approval shall be issued concurrent with receipt of a building permit for a single-family dwelling.

[Ord. 2008-037]

~~a.1)~~ DRO Approval

Pursuant to Article 2.D, Administrative Process: DRO Approval shall be required. The DRO shall review for compliance with this Section and may approve the application with or without conditions.

~~b.2)~~ Duration

A Type ~~1~~ B ~~e~~Excavation permit shall expire 120 days from the date authorization is received to begin excavation activity. The DRO may grant one 90 day extension.

D4. Type H2 Excavation

a. Definition

Excavation necessary to create a lake or lakes required to implement a Development Order for a final site development plan.

1b. Location

A Type H2 ~~e~~Excavation may be permitted to implement a site development plan for a principal use as permitted in ~~the Use Regulation Schedule Table 4.A.3.A Use Matrix Art. 4.B, Use Classification~~, and to implement a ~~m~~Master Plan, ~~s~~Site ~~p~~Plan, or final ~~s~~Subdivision ~~p~~Plan approved by the DRO. **[Ord. 2008-037]**

2c. Standards

An application for a Type H2 ~~e~~Excavation shall comply with the following requirements:

~~a.1)~~ Article ~~4.D.8.A~~ 4.B.10.B.7.a, Operational Standards and Requirements, and Article ~~4.D.8.B~~ 4.B.10.B.7.b, Construction Standards;

~~b.2)~~ Excavated area, Littoral zone and general upland reclamation requirements pursuant to Article ~~4.D.8.C~~ 4.B.10.B.7.c, Reclamation Standards;

~~c.3)~~ Article ~~4.D.8.D~~ 4.B.10.B.7.d, Performance Guarantee Requirements;

~~d.4)~~ Article ~~4.D.8.E~~ 4.B.10.B.7.e, Maintenance and Monitoring; and,

~~e.5)~~ Article ~~4.D.7~~ 4.B.10.B.6, Notice of Intent to Construct.

3d. Separations and Setbacks

In addition to the separation requirements in Article ~~4.D.8.B.1~~ 4.B.10.B.7.b.1, Separation, Type H2 Excavation shall maintain a minimum setback of 30 feet, measured from the top of bank to the perimeter boundary of the ~~m~~Master ~~p~~Planned development, ~~s~~Subdivision, ~~overall~~ ~~f~~Final ~~s~~Site ~~p~~Plan, streets 80 feet in width or greater, and canal R-O-W. For the purpose of this ~~Section separation and setbacks provision~~, the top of bank is considered the waterward edge of the lake maintenance easement.

4e. Depth

The maximum depth of a Type H2 ~~e~~Excavation shall be in accordance with Article ~~4.D.5.A.2~~ 4.B.10.C.1.c, Maximum Depth.

Reason for amendments: [Zoning/Land Development]
1. Delete redundant language that was intended to clarify regulations applicable to Type 2 Excavation since all regulations contained in the Excavation Uses of Art. 4, Use Regulations, should be considered prior to the operation of any excavation activity.
2. Allow County staff to decide if additional information may be needed, when applications do not

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	sufficiently show that removal of Type 2 Excavation material in excess of ten percent, is not affecting internal streets of the development.
3.	Require completed developments looking to reconfigure lakes and relocate fill off-site to submit for a Development Order Amendment (DOA) application for Class A Conditiona Use or Requested Use. These processes require public hearings which will allow public participation.
4.	Clarify that removal of fill resulting from the maintenance of lakes in Type 2 Excavation is not subject to the percentage removal contained in the Type 2 Excavation standards.

5f. Use Approval and Procedures

~~Prior to initiating excavation activity, approval shall be required in accordance with this Section. [Ord. 2008-037]~~

a.1) DRO Approval

Prior to initiating Type #2 excavation activities, DRO review and approval shall be required. Application shall be made in accordance with Article 2.D, Administrative Process, and this Section. DRO shall review the final site development plan for compliance with the standards of this Section and may approve with or without conditions.

b.2) Removal of Excess Fill from the Site During Development Construction

DRO may approve removal of more than ten percent of the extracted material from the site if:

- 1a) The applicant demonstrates that the make up of the natural soil contains an excessive amount of silt, rock, or muck and construction of required drainage structures or construction of required structural foundations require removal of an excessive amount of silt, rock or muck; or
- 2b) The removal of the material is the minimum necessary to accommodate on-site drainage requirements or structural fill requirements; and
- 3c) The impact of hauling the excavating material off-site will not cause adverse affects to adjacent internal property owners or internal streets. Staff may request additional information necessary to evaluate if this criteria is enough to satisfy.

e.3) Off-site Removal During Development Construction

A minimum of 90 percent of the fill shall be used on site, unless unusual site conditions exist. ~~If the applicant must remove more than ten percent of the fill from the site, then use approval shall be required as follows an excess of ten percent of fill is proposed to be removed from a site and no unusual conditions exist justifying removal of more than ten percent of the excavated material, as specified in Article 4.B.10.C.4, Type 2 Excavation, the application shall be subject to the following: [Ord. 2004-040] [Relocated from next paragraph Removal of Excess Fill]~~

1a) Removal of Excess Fill Approval Process

~~If an excess of ten percent of fill is proposed to be removed from a site and no unusual conditions exist justifying removal of more than ten percent of the excavated material, as specified in Art. 4.D.5.D, Type # Excavation, then the applicant shall apply for a Class A Conditional Use or Requested Use, pursuant to the standards of Art. 2.B.2, Conditional Uses, Requested Uses, Development Order Amendments, Unique Structures and Type #2 Waivers, and [Relocated to above paragraph Off-site Removal]~~

b) Requirements

The applicant shall comply with the following standards:

- 1) ~~Art. 4.D.8.A Article 4.B.10.B.7.a~~, Operational Standards and Requirements,
- 2) Littoral;
- 3) Upland Reclamation Standards in ~~Art. 4.D.8.E Article 4.B.10.B.7.e~~, Maintenance and Monitoring;
- 4) Maintenance and Monitoring requirements for excavated areas, and littoral plantings in ~~Art. 4.D.8.E Article 4.B.10.B.7.e~~, Maintenance and Monitoring;
- 5) Buffer requirements in Article ~~4.D.5.E 4.B.10.C.5~~, Type #3A Excavations; and
- 6) Setbacks shall be provided pursuant to Type #2 setback requirements in Article ~~4.D.5.D.3 4.B.10.C.4.d~~, Separations and Setbacks. [Ord. 2004-040] [Ord. 2010-022]

1c) Frontage

The development shall have direct frontage on and access to a collector or arterial street depicted on the County's Thoroughfare Identification Map.

2d) Location

The following Type #3A standards shall apply, unless waived by the BCC after a finding of fact that waiver of these standards will not violate the compatibility standards, pursuant to ~~Art. 4.D.5.E.8 Article 4.B.10.C.5.i~~, Compatibility Standards. [Ord. 2004-040]

4) Removal of Fill After Development Acknowledgement of Completion

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The off-site removal of fill resulting from reconfiguration of lakes after an acknowledgement of completion has been issued by Land Development, shall be subject to a Development Order Amendment for Class A Conditional Use or Requested Use; and, shall comply with the applicable standards contain herein.

d.5) Excavation, Performed by Public Agency, To Provide Drainage For A Public Street

1a) Excavation activity located outside the street boundary, conducted solely to accommodate drainage for a public streets and performed or caused to be performed by contract with a public agency, as defined herein, shall comply with the standards below. The excavation activity shall:

(1a) be on land owned by PBC, the State, or a Water Control District created by special act to operate under F.S. Chapter 298 (1996); or,

(2b) be on land granted by easement to and accepted by PBC, the State, or a Water Control District; and,

(3e) be the absolute minimum necessary to comply with the surface water drainage requirements for the public streets.

2b) For the purpose of ~~this Section Art. 4.B.10.C.4, Type 2 Excavation~~, authorization by PBC, FDOT or a Water Control District to construct a public streets shall constitute a valid Development Order. The excavation activity shall comply with the standards below:

(1a) Notice of Intent to Construct pursuant to Article ~~4.D.7~~ **4.B.10.B.6**, Notice of Intent to Construct;

(2b) Operational and Construction standards pursuant Article ~~4.D.8.A, 4.B.10.B.7.a~~ Operational Standards and Requirements, Article ~~4.D.8.B 4.B.10.B.7.b~~, Construction Standards, and Article ~~4.D.8.A.10 4.B.10.B.7.a.10~~, Hauling Standards;

(3e) Littoral zone and general upland reclamation requirements pursuant to Article ~~4.D.8.C 4.B.10.B.7.c~~, Reclamation Standards; and,

(4d) Maintenance and Monitoring requirements pursuant to Article ~~4.D.8.E 4.B.10.B.7.e~~, Maintenance and Monitoring.

6) Lake Maintenance

Off-site removal of fill resulting from lake maintenance shall be permitted subject to DRO approval.

Reason for amendments: [Zoning/Land Development]

- 1. Introduce Type 3 Excavation definition to differentiate from other types of excavation by indicating it is generally intended for commercial purposes. This definition consolidates existing language from Type 3 Excavations A and B.

E5. Type III Excavations

a. Definition

The extraction of minerals primarily for commercial purposes.

1b. Classification of Types

~~An excavation that meets the definition of mining is considered commercial operations.~~ Type ~~II2~~, or Agricultural ~~eExcavations~~ that exceed established criteria, as defined in this Section, are to be considered a Type ~~III3~~ ~~eExcavation~~. Two classes of Type ~~III3~~ ~~eExcavations~~ (Type ~~III3A~~ and Type ~~III3B~~) are established to distinguish between the types of mining operations. [Ord. 2008-037] [Partially relocated above under definition]

a.1) Type III3A Excavation

~~Mining Excavation~~ activity, ~~primarily for commercial purposes~~, that extracts materials from the earth and may require limited on-site processing by using temporary or portable crushers, sifters and conveyor systems. A Type ~~III3A~~ ~~eExcavation~~ activity may use dragline, dredging or earthmoving equipment to perform the mining operation provided the operation complies with the standards of this Section. The use of explosive devices or permanent structures or equipment used to crush or sift material shall be prohibited.

b.2) Type III3B Excavation

~~Mining Excavation~~ activity, ~~primarily for commercial purposes~~, that extracts materials from the earth and may require extensive processing of the material on site. Type ~~III3B~~ ~~eExcavations~~ may use dragline, dredging, earthmoving equipment to perform the mining operation. The use of explosives and heavy industrial equipment to crush, sift and transport the material on site may be permitted subject to compliance with the standards of this Section.

2c. Standards

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1 An application for a Type ~~III~~ eExcavation shall comply with the following requirements:
2 **[Ord. 2008-037]**

3 ~~a.1)~~ Operational and construction standards pursuant to Article ~~4.D.8.A~~ 4.B.10.B.7.a,
4 Operational Standards and Requirements, and Article ~~4.D.8.B~~ 4.B.10.B.7.b,
5 Construction Standards.

6 ~~b.2)~~ Excavated area, Littoral zone and upland reclamation requirements pursuant to
7 Article ~~4.D.8.C~~ 4.B.10.B.7.c, Reclamation Standards.

8 ~~c.3)~~ Article ~~4.D.8.D~~ 4.B.10.B.7.d, Performance Guarantee Requirements.

9 ~~d.4)~~ Article ~~4.D.8.E~~ 4.B.10.B.7.e, Maintenance and Monitoring.

10 **3d. Location**

11 A Type ~~III~~ eExcavation may be permitted in accordance with Table ~~4.A.3.A~~ 4.B.10.A,
12 Excavation Use Matrix. Mining may be permitted with limitations in the districts identified
13 below.

14 **a.1) AP District in the AP FLU Designation**

15 Mining shall be limited to the support of public road construction projects, agricultural
16 activities, or water management projects associated with ecosystem restoration,
17 regional water supply or flood protection, on sites identified by the SFWMD or the
18 U.S. Army Corps of Engineers where such uses provide viable alternative
19 technologies for water management. Mining shall demonstrate compliance with
20 standards in Article ~~4.D.5.E.8~~ 4.B.10.C.5.i, Compatibility Standards. **[Ord. 2005-041]**

21 **4e. Depth**

22 The maximum depth of a Type ~~III~~ eExcavation shall be in accordance with Article
23 ~~4.D.5.A.2~~ 4.B.10.C.1.c, Maximum Depth.

24 **5f. Accessory Use**

25 An asphalt batch concrete plant shall be permitted as an accessory use to a Type ~~III~~ B
26 eExcavation, subject to DRO approval and provided that:

27 ~~a.1)~~ the site is a minimum of 500 acres;

28 ~~b.2)~~ the use is separated at least one-half mile from any residential use or district; and,

29 ~~c.3)~~ direct access to the plat is provided from an arterial street.

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6g. Use Approval and Procedures

A Class A conditional use approval is required for a Type ~~III~~ eExcavation, in accordance with Article 2.B.2, Conditional and Requested Uses, and this Section. A Type ~~III~~ eExcavation shall require an additional level of review that exceeds the County's current scope of review to establish that the request will not have a significant adverse impact to water quality or the overall health of available water resources. [Ord. 2008-037]

~~a.1)~~ a.1) Excavation Pre-Application Checklist

Concurrent with submittal of an excavation application for the DRO certification for public hearing, the applicant shall secure the information described on the excavation pre-application checklist and shall use this information as the basis for a pre-application meeting with DEP. This pre-application information and meeting is necessary to obtain a Preliminary Assessment Letter (PAL) from the DEP, Bureau of Mines and Minerals. The Pre-application Checklist is available from the Zoning Division, as amended periodically by the Executive Director of PZ&B. [Ord. 2008-037]

~~1a)~~ 1a) Preliminary Assessment Letter (PAL)

The Applicant shall gather the information described on the checklist and conduct a pre-application meeting with the DEP. The County application shall not be determined to be sufficient without the PAL or its equivalent as stated in ~~Art. 4.D.6.a.2 Article 4.B.10.C.5.g.1)b), Alternative to the Preliminary Assessment Letter.~~ Should the DEP identify certification issues regarding the application, these issues must be resolved prior to certification of the application for public hearing. [Ord. 2008-037]

~~2b)~~ 2b) Alternative to the Preliminary Assessment Letter

In lieu of a Preliminary Assessment Letter, the applicant may submit one of the following to the County: [Ord. 2008-037]

~~(1a)~~ (1a) An Environmental Resource Permit; or [Ord. 2008-037]

~~(2b)~~ (2b) Request for Additional Information demonstrating no apparent concerns will be generated from the application. [Ord. 2008-037]

~~3c)~~ 3c) Conditions of Approval

The DEP may recommend conditions of approval to the BCC to resolve issues related to its regulations. [Ord. 2008-037]

~~b.2)~~ b.2) Water Control or Management District

Concurrent with submittal of an excavation application for the DRO certification for public hearing, the applicant shall submit a duplicate copy to the Zoning Division to be forwarded to the Water Control or Management District, whichever is applicable, that has jurisdiction to maintain roads and drainage in the area. The Water Control District may provide comments to the DRO to be included in the staff report for presentation to the BCC. [Ord. 2008-037]

~~e.3)~~ e.3) Final DRO Approval

Prior to starting any activity associated with the excavation project, the applicant shall submit an excavation plan to the DRO for review and approval in accordance with Article 2.D, Administrative Process. [Ord. 2008-037]

~~1a)~~ 1a) The applicant shall submit a phasing plan complying with the requirements of Article ~~4.D.6. 4.B.10.B.5,~~ Supplemental Application Requirements, and Article ~~4.D.7 4.B.10.B.6,~~ Notice of Intent to Construct.

~~2b)~~ 2b) Once reclamation and rehabilitation of the preceding phase of excavation has commenced, a subsequent phase of excavation may begin after receipt of all guarantees, required by Article ~~4.D.8.E 4.B.10.B.7.e,~~ Maintenance and Monitoring, and written authorization by the DRO.

~~3c)~~ 3c) Prior to final site approval by the DRO, ERM shall confirm that the applicant has provided all necessary state final approved permits. [Ord. 2008-037]

~~d.4)~~ d.4) Amendment to Development Order

If amendments to the BCC approval are necessary to accommodate other State permitting requirements, and provided these changes are within boundaries of the existing BCC approval, these amendments shall be allowed at final plan approval by the DRO. [Ord. 2008-037]

Reason for amendments: [Land Development] Land Development is no longer issuing haul permits for several reasons, including that only rights of way maintained by Palm Beach County are eligible by ordinance to receive a right-of-way permit. Many of the roads utilized for haul routes are under State or Municipal control and the permittees cannot be held accountable for road damage due to lack of proof.

~~e.5)~~ e.5) Haul Permit Agreement

The BCC may require, as a condition of approval, for ~~a an executed agreement for the proposed haul permit for unpaved collector or arterial streets. If required, a haul permit application shall be submitted to and approved by the Land Development~~

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1 ~~Division~~ in accordance with Article ~~4-D-8~~ 4.B.10.B.7, Technical Standards, prior to
2 issuance of the Notice of Intent to Construct by ERM.

DRAFT

Notes:

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f.6) Notice of Intent to Construct

Notice of Intent to Construct shall be submitted to and receive approval from ERM in accordance with Article ~~4.D.7~~ 4.B.10.B.6, Notice of Intent to Construct, prior to initiating any on-site excavation activities.

g.7) Reclamation Plan Approval and Release of Performance Guarantees

Prior to the release of any performance guarantee. The DRO shall approve an "as built" reclamation plan. The plan shall include certified as-built drawings and written certification, bearing the seal of an engineer registered in the State of Florida, certifying compliance with Article ~~4.D.8~~ 4.B.10.B.7, Technical Standards, (excluding littoral and upland planting requirements), and that all construction related Development Order conditions and guarantees have been satisfied. Performance guarantees for planting areas shall be released in accordance with Article ~~4.D.8.E~~ 4.B.10.B.7.e, Maintenance and Monitoring.

7h. Annual Report

For the purpose of Type ~~4H3~~ Excavation, the owner shall submit an Annual Report to ~~the~~ Monitoring ~~Section~~ on the anniversary date of the BCC approval date. The Annual Report is necessary to monitor the intent of the conditional use approval and applicable BCC conditions. In addition, the report is to ensure compliance and update the Agency requirements as listed below: [Ord. 2008-037]

a.1) General:

- 1a) Acres mined to date; [Ord. 2008-037]
- 2b) Tonnage removed/sold including a copy of the resource extraction fee receipt to the County; [Ord. 2008-037]
- 3c) Status of each phase; [Ord. 2008-037]
- 4d) Updates to master /site plans; [Ord. 2008-037]
- 5e) Documentation that the intended use of the material complies with County requirements, such as, but not limited to, the quarry's status with FDOT and other usages for the mined aggregate; [Ord. 2008-037]
- 6f) Status of compliance with conditions contained within the approved Resolution(s); [Ord. 2008-037]
- 7g) Status of compliance with all required permits including the most recent compliance inspection from subject agencies, and status of any identified notice of noncompliance/violations; [Ord. 2008-037]
- 8h) Full stamped, executed or signed copies, including exhibits and plans, of required permits from all participating agencies including modifications or updates as they occur; and, [Ord. 2008-037]
- 9i) Certification and documentation that all seismograph instruments have been re-calibrated during the calendar year. [Ord. 2008-037]

b.2) Agencies

Address the following ~~the following~~ agency requirements: [Ord. 2008-037]

1a) Archaeological:

- (1a) Status of found artifacts and their location(s); and, [Ord. 2008-037]
- (2b) Copy of notification(s) to County and State Archaeologist and current status. [Ord. 2008-037]

2b) Engineering:

- (1a) Status of potential road construction requirements, signalization and ROW acquisitions. [Ord. 2008-037]

3c) Environmental:

- (1a) Status of Notice of Intent to Construct (NIC) conditions of approval and compliance with Administrative waivers; [Ord. 2008-037]
- (2b) Status of extraction fee; and, [Ord. 2008-037]
- (3e) Water quality data from designated sampling location from FDEP. [Ord. 2008-037]

4d) Health:

- (1a) Status of compliance for any onsite sewage treatment and disposal systems; [Ord. 2008-037]
- (2b) Status of compliance for any onsite drinking water systems; and, [Ord. 2008-037]
- (3e) Status of compliance with BMP's for mosquito control including the need for aerial spraying. [Ord. 2008-037]

5e) Planning:

- (1a) Status of possibility for the mined areas to be utilized for Water Management or ecosystem restoration purposes with a letter or any executed binding agreements from each corresponding agency discussing pertaining to the reclaimed mined areas future proposed uses. [Ord. 2008-037]

6f) Zoning:

- (1a) Copy of the daily blasting log; [Ord. 2008-037]
- (2b) Copy of the State Fire Marshall's blast permit; and, [Ord. 2008-037]

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(3e) Status of the upland reclamation requirements. [Ord. 2008-037]

8i. Compatibility Standards

A Type ~~III~~ ~~e~~Excavation shall be reviewed to assure the proposed excavation is compatible with surrounding land uses and complies with the applicable separation and setback standards and to ensure there are no negative impacts as defined herein. The BCC shall not approve the application if a finding is made that the use will be incompatible with surrounding land uses. For the purposes of this ~~Section requirement~~, incompatible means negative impacts caused to surrounding land uses because of proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including, but not limited to, the impacts of noise, vibration, dust, traffic, smoke, odors, toxic matter, radiation, and similar environmental conditions.

a.1) General

The following standards shall apply to both Type ~~III~~A and Type ~~III~~B mining activities.

4a) Location and Access

Local residential streets shall not be used for access or as a haul route. The site shall front on and have direct access to an arterial or collector street designated on the County's Future Thoroughfare Identification Map. In cases when the street on the Thoroughfare Identification Map is not paved, the BCC may allow an ~~Excavation~~ Type ~~III~~ Excavation to locate and have access to the street provided the BCC makes a finding of fact that the use of the street will not cause an incompatible affect on surrounding residential uses, and may condition the project to obtain a haul permit in accordance with Article ~~4.D.8.A.10~~ 4.B.10.B.7.a.10, Hauling Standards.

(a1) Restrictions in the RR FLU Designation

Commercial excavation shall be prohibited in neighborhoods which support developed single-family residences on 60 percent of the valid lots of record. For the purposes of this ~~Section requirement~~, neighborhoods shall be defined as an area contained within a platted subdivision, a rural unrecorded subdivision an approved affidavit of exemption, an area which has prepared a neighborhood plan in accordance with the Plan, or is in an area with lots of similar size. Commercial excavation located in an area with a rural residential land use designation that do not satisfy the definition of neighborhood above, shall have a minimum of 100 acres and 500 feet of frontage with direct access to an arterial or collector street as specified herein.

2b) Separation from Other Land Uses

Minimum separations from protected land uses are defined in Article ~~4.D.5.E.8~~ 4.B.10.C.5.i, Compatibility Standards. Unless otherwise specified, separation shall be measured from the outermost edge of the excavated area (top of bank), equipment, stockpiles, buildings, or structures, to the closest structure of a protected land use. The BCC may reduce the required separation distance based on the compatibility of the use with the adjacent area, and the remoteness or proximity of adjacent incompatible uses, provided the reduction complies with the intent of the compatibility standards in Article ~~4.D.5.E.8~~ 4.B.10.C.5.i, Compatibility Standards. The BCC shall state the basis for the reduced separation and make a finding of fact that the reduction should not negatively impact adjacent uses. If the separation is reduced, the BCC may require increased setbacks, buffering and other restrictions as necessary to protect surrounding land uses.

(a1) Residential Uses

For the purposes of this Section, existing residential uses shall be defined as a residential lot supporting a residence in a platted subdivision, a rural unrecorded subdivision, an approved affidavit of exemption, a plat waiver, or other recorded instrument and is not located within the boundary of the excavation project.

3c) Setbacks

Setbacks shall be measured from the outermost edge of the excavated area (top of bank), structure, building, equipment, or stockpile to the boundary of the excavation project.

4d) Fence

If mining activity is conducted within one-half mile of a residential use, the mining operation shall be completely enclosed by a minimum six foot high fence, wall, or natural barrier and shall have signage posted to prohibit trespassing.

5e) Noise

Airborne noise produced from the excavation activity shall comply with the noise provisions in Article 5.E, Performance Standards, as measured at the nearest inhabited structure. The sound level limits are allowed to increase for a limited

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duration. For this limited period, noise generated by excavation projects may increase up to ten DB more than permitted by Table 5.E.4.B, Maximum Sound Levels. In addition, the noise level may increase to a maximum of 120 dB once each weekday (Monday - Friday) for a maximum of ten seconds.

b.2) Type IIIA Excavations

1a) Restrictions in the RR FLU Designation

(a1) Lot Size

A minimum of 40 acres.

(b2) Minimum Surface Area

The maximum excavated surface area shall not exceed 30 percent of the gross area contained within the boundary of the excavation project.

2b) General

The following standards shall apply to a Type IIIA excavation:

(a1) Minimum Separations and Setbacks

In addition to the separation requirements in Article 4-D-8-B 4.B.10.B.7.b, Construction Standards, a Type IIIA excavation shall maintain the following separations and setbacks from adjacent uses as provided below.

(1a) Separations from Residential Land Uses

Separation from an existing residence shall be a minimum of one-quarter mile, measured from the property line of the excavation project to the inhabited structure.

(2b) Setbacks

Table 4-D-5-E 4.B.10.C - Setbacks

	Residential	Commercial	Industrial/ Agricultural	Streets
Excavated lake edge	100'	50'	50'	50'
Processing equipment	600'	200'	200'	200'
Stockpiles	300'	200'	100'	200'
Accessory buildings and structures	100'	100'	100'	100'

(b2) Stockpile Height

Stockpile height shall be limited to 30 feet.

(e3) Buffer

A buffer shall be preserved or installed along a property lines in accordance with the provisions below. The buffer shall be planted and maintained in accordance with the standards of Article 7.F, Perimeter Buffer Landscape Requirements, as applicable.

(1a) Existing Vegetative Buffer

If a substantial native or non-native, non-invasive vegetative buffer exists, then the vegetation shall be utilized as an incompatibility buffer and preserved along the entire perimeter of the site, except for an approved access area. To be considered substantial, the buffer shall provide an opaque screen and be a minimum depth of one 100 feet. If the 100 foot buffer is not opaque, then native vegetation complying with the standards of a Type 3 incompatibility buffer shall be required to be planted to supplement the existing vegetation and shall form a solid visual buffer within two years. All native vegetative buffers shall be protected during the duration of the excavation activity in accordance with the standards in Article 7.F, Perimeter Buffer Landscape Requirements, and in Article 14.C, Vegetation Preservation and Protection.

(2b) Existing Prohibited Vegetative Buffer

To provide an instant buffer the BCC, by condition of approval, may permit existing prohibited species to be maintained within the setbacks for a Type IIIA excavation until completion of the excavation activity. In such cases the prohibited species shall be removed prior to DRO approval of the as-built drawings for the final phase of excavation, provided the last phase is a minimum of 25 acres. A landscape buffer as required by Article 7.F, Perimeter Buffer Landscape Requirements, shall be installed in conjunction with subsequent development.

(3c) No Existing Vegetative Buffer

If a buffer does not exist along the areas defined below, then an opaque native buffer shall be installed complying with the standards of a Type 3 incompatibility Buffer. The buffer shall be supplemented with a planted berm, a solid landscape barrier, or combination thereof to reach a height

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of eight feet in two years. The BCC may require the buffer to be planted to simulate natural conditions. This buffer shall be installed adjacent to:
(1-) all streets;
(2-) all residential zoning districts;
(3-) lots supporting existing or proposed residential uses in the AR zoning district. Unless otherwise determined by the BCC, a buffer shall not be required adjacent to land in agricultural production in the AP, or SA zoning districts nor in the AR zoning district if the land is used solely for bona fide agricultural purposes; and
(4-) commercial zoning districts.

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~~e-3~~ Type ~~III~~ B Excavation

~~4a~~ Restrictions in the RR and SA FLU Designation [Ord. 2005 – 002]

~~(a1)~~ Lot Size

A minimum of 100 acres.

~~(b2)~~ Maximum Surface Area

The maximum excavated surface area shall be determined by the BCC.

~~2b~~ General

A Type ~~III~~ B ~~e~~ Excavation shall comply with the following criteria:

~~(a1)~~ Minimum Separations and Setbacks

In addition to the separation requirements in Article ~~4.D.8.B~~ ~~4.B.10.B.7.b~~, Construction Standards, a Type ~~III~~ B Excavation, except those that lie in the area defined as the WCAA, shall comply with the separation and setback regulations below. Excavation projects in the WCAA shall be evaluated on a case by case basis in accordance with the compatibility criteria Article ~~4.D.5.E.8~~ ~~4.B.10.C.5.i~~, Compatibility Standards, and shall have separation requirements set by the BCC.

~~(4a)~~ Separation from Residential Uses

Separations from residential uses, shall be a minimum of one-eighth of a mile, in all directions measured in accordance with ~~Art. 4.D.5.E.8.a.2)~~ ~~Article 4.B.10.C.5.i.1)b)~~, Separation from Other Land Uses, above. [Ord. 2005-002]

~~(2b)~~ Setbacks

Minimum setbacks shall be provided based on separations from uses as indicated below. [Ord. 2005-002]

~~(3c)~~ Separation from Commercial and Industrial Uses

Commercial: 1/2 mile
Industrial: 1/8 mile
[Ord. 2005-002]

Table ~~4.D.5.E~~ ~~4.B.10.C~~- Setbacks Based On Separation From Residential Uses

Uses	Separations			
	1 mile	2 mile	1/4 mile	1/8 mile
Mined lake edge	50'	100'	500'	1200'
Processing equipment	100'	300'	800'	1400'
Stockpiles	100'	300'	700'	1300'
Accessory buildings & structures	100'	100'	100'	100'

~~(b2)~~ Mining Impact Study

A Mining Impact Study shall be submitted for a Type ~~III~~ B ~~e~~ Excavation in the WCAA and for projects which the applicant requests a reduction in the required separations. The study shall detail all methods and procedures for material extraction, processing, storage and hauling operations. At a minimum the study shall include the time of day blasting will occur, the maximum number of holes to be shot each occurrence, including the type of explosive agent, maximum pounds per delay, method of packing and type of initiation device to be used for each hole. The study shall include a blasting schedule and establish noise and vibration standards complying with Article ~~4.D.5.E.8~~ ~~4.B.10.C.5.i~~, Compatibility Standards. The study shall also demonstrate how these operations will impact surrounding land uses.

~~(4a)~~ Prior to certification of an application for inclusion on a public hearing agenda, the DRO may retain a technical consultant to advise the PBC of the adequacy of the standards established in conjunction with the Mining Impact Study. The cost of PBCs consultant shall be borne by the applicant.

~~e3~~ Noise and Vibration Monitoring Report

The applicant shall monitor all blasting and other mining activities and record resultant noise and vibrations. PZB may, at any time, require the property owner to submit monthly monitoring reports, indicating the number, time, peak over pressure (noise) and vibration caused by each activity. If requested, the property owner shall provide the noise and vibration monitoring report within two working days from the date of the request.

~~d4~~ Buffer

A buffer shall be installed along all property lines as specified below. The buffer shall be planted and maintained in accordance with the standards of Article 7.F, Perimeter Buffer Landscape Requirements.

~~(4a)~~ Existing Native Vegetative Buffer

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Existing native vegetation within 100 feet of the property line shall be preserved along the entire perimeter of the site, except for an approved access area.

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(2b) Existing Prohibited Vegetative Buffer

To provide an instant buffer along the entire perimeter of the site, the BCC, by condition of approval, may permit existing prohibited species to be maintained in the setbacks until completion of the excavation activity. In such cases, the prohibited species shall be removed prior to DRO approval of the as-built drawings for the final phase of excavation, provided the last phase is a minimum of 25 acres. A landscape buffer as required by Article 7.F, Perimeter Buffer Landscape Requirements, shall be installed in conjunction with subsequent development.

(3c) Type 3 Incompatibility Buffer

Sites within a one-quarter mile of a public or private streets, which does not support an existing opaque native or non-native, non-invasive vegetative buffer shall install a Type 3 incompatibility buffer. The buffer shall be supplemented with a planted berm, a solid landscape barrier, or combination thereof.

(4d) No Existing Vegetative Buffer

If a buffer does not exist along the areas defined below, then an opaque native buffer shall be installed complying with the standards of a Type 3 incompatibility buffer. The buffer shall be supplemented with a berm, a solid landscape barrier, or combination thereof to reach a height of eight feet in two years from the date of installation. The BCC may require the buffer to be planted to simulate natural conditions. This buffer shall be installed adjacent to: **[Ord. 2008-037]**

- (a) All residential zoning districts and;
- (b) Lots supporting existing or proposed residential uses in the AR Zoning District. Unless otherwise determined by the BCC, a buffer shall not be required adjacent to land in agricultural production in the AP or AR district if the land is used solely for bona-fide agricultural purposes.

3c) Hours of Operation

Excavation and hauling activity shall occur only between the hours of 6:00 a.m. and 7:00 p.m., Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday, unless otherwise determined by the BCC. Blasting activity shall be limited to 10:00 a.m. to 5:00 p.m., Monday through Friday.

4d) Notice of Intent to Construct

Compliance with Article ~~4.D.7~~ 4.B.10.B.6, Notice of Intent to Construct.



Part 8. Art. 9.A, Archaeological Resources Protection, (Page 3, 4 and 5 of 17), is hereby amended as follows:

Reason for amendments: <u>[Zoning]</u>	
1.	Update Excavation type reference to reflect use of Arabic numbers instead of Roman numbers for consistency with proposed changes in the Excavation Uses chapter of Art. 4, Use Regulations.
2.	Update Excavation Uses reference to reflect updated article numbers resulting from the reorganized excavation language as part of the Use Regulations Project.

CHAPTER A ARCHAEOLOGICAL RESOURCES PROTECTION

Section 1 General

B. Applicability

- 3. All applications for Type ~~III~~ 3 Excavation, pursuant to Article ~~4.D, EXCAVATION~~ 4.B.10, Excavation Uses. **[Ord. 2005-002]**
-

Section 2 Development Subject to Archaeological Review

A. Development Subject to Archaeological Review

Development shall be subject to this Article as follows:

1. Parcels on Identified Sites

Parcels on the Map of Known Archaeological Sites and Archaeological Conservation Areas and proposals for Type ~~III~~ 3 Excavation. Owners of parcels located on the Map of Known Archaeological Sites and Archaeological Conservation Areas or owners of parcels requesting approval for Type ~~III~~ 3 Excavation must receive a Certificate to Dig prior to issuance of a development order. **[Ord. 2005 – 002]**

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1 Section 3 Procedures

2 C. Certificate to Dig

3 1. Application

4 Owner of parcels required by Art. 9.A.1, General, and Art. 9.A.2, Development Subject to
5 Archaeological Review, Parcels on the Map of Known Archaeological Sites, Archaeological
6 Conservation Areas and proposals for Type ~~III~~ Excavation, and Previously Unknown
7 Archaeological Sites discovered during development, to make application for a Certificate to
8 Dig to the PZB for review shall make such application prior to the issuance of a development
9 order. The application for the Certificate to Dig shall be made on a form available from the
10 PZB. Only one Certificate to Dig shall be required to develop a site unless additional
11 resources not addressed in the initial Certificate to Dig are found during site development.
12 The department shall determine whether the application is a standard or special Certificate to
13 Dig. A special Certificate to Dig will be required for any application that will potentially alter or
14 destroy more than ten percent of any known or previously recorded archeological site. All
15 special Certificates to Dig will be forwarded by the department to the Palm Beach County
16 Historic Resources Review Board (HRRB) for review. All standard Certificates to Dig will be
17 reviewed by the department staff and the County Archaeologist. [Ord. 2005 – 002] [2008-
18 037]

19

22 Part 9. Art. 10, Enforcement, (page 6 and 11 of 12), is hereby amended as follows:

Reason for amendments: [Zoning] Update Excavation Uses reference to reflect updated article numbers resulting from the reorganized excavation language as part of the Use Regulations Project.

24

25 CHAPTER C GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD

26 ERM may refer alleged violations of Article 14, Environmental Standards, or Article ~~4.D, EXCAVATION~~
27 4.B.10, Excavation Uses, of this Code to the Groundwater and Natural Resources Protection Board
28 (GNRPB) for prosecution pursuant to the following standards and procedures.

29

30 CHAPTER E REMEDIES

31 Section 1 Administrative Remedies for Art. 14 , and Art. 4.D, Excavation

32 In order to provide an expeditious settlement that would be beneficial to the enforcement of the provisions
33 of Article 14, Environmental Standards and Article ~~4.D, EXCAVATION~~ 4.B.10, Excavation Uses, and be in
34 the best interest of the citizens of PBC, the Director of ERM is authorized to enter into voluntary consent
35 (settlement) agreements with alleged violators. Any such agreement shall be a formal written agreement
36 between the Director of ERM on behalf of PBC and any such alleged violators, and shall be approved as
37 to form and legal sufficiency by the County Attorney's Office.

38

41 Part 10. Art. 11, Subdivision, Platting and Required Improvements, (page 23 and 42 of 46), is
42 hereby amended as follows:

Reason for amendments: [Zoning] Update Excavation Uses reference to reflect updated article numbers resulting from the reorganized excavation language as part of the Use Regulations Project.

44

45 CHAPTER B SUBDIVISION REQUIREMENTS

46 Section 6 Supplemental Procedures

47 A. Construction and Landscaping in Lake Maintenance Easements and Water Management
48 Tracts

49 3. Application Requirements for Bulkheads, Docks, or Piers

50 Persons desiring to construct bulkheads, docks, or piers over or along a water body
51 contained within a water management tract shall apply to the Director of ERM in accordance
52 with the applicable provisions of Article ~~4.D, EXCAVATION~~ 4.B.10, Excavation Uses.

53

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1 CHAPTER E REQUIRED IMPROVEMENTS

2 Section 4 Stormwater Management

3 F. Secondary Stormwater System Design and Performance

- 4
- 5 4. Except where bulk heading is approved in accordance with Article ~~4.D, EXCAVATION 4.B.10,~~
- 6 Excavation Uses each wet detention/retention facility designed for storage of stormwater
- 7 runoff in an open impoundment shall have:
- 8

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