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## **B. Common Provisions and General Standards**

### **1. Purpose and Intent**

The purpose of this Section 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 PBC's natural resources and to achieve these goals, it is the intent of this Section to:

- a. ensure that excavation and mining activities do not adversely impact the health, safety, and welfare of the citizens of PBC;
- b. prevent immediate and long-term negative environmental and economic impacts of poor land development practices;
- c. encourage the use of economically feasible and environmentally sound excavation and mining practices;
- d. 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;
- e. encourage the rehabilitation of commercially mined sites to other beneficial uses by promoting economical, effective, and timely site reclamation;
- f. protect existing and future beneficial use of surrounding properties from the negative effects of excavation and mining;
- g. 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;
- h. establish a regulatory framework of clear, reasonable, effective, and enforceable standards and requirements for the regulation of excavation, mining, and related activities; and,
- i. 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.

### **2. Applicability**

All excavation and mining 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.

#### **a. Conflicting Provisions**

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.

#### **b. Previously Approved Development Orders (DOs)**

Applications for excavation and mining projects approved prior to September 25, 1996, may amend the certified site (excavation) plan pursuant to Art. 2.C, Administrative Processes, to comply with the Standards enumerated below provided the Standards do not conflict with Development Order conditions. Selective choice of Standards shall not be permitted. The DRO may review and approve the Excavation Plan, pursuant to Art. 2.C, Administrative Processes, provided the subject site complies with the compatibility criteria in Art. 4.B.10.C.5.i.2), Type 3A Excavation, and the technical standards in Art. 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 DO. Any increase shall require approval of a DOA by the BCC pursuant to Art. 2.B, Public Hearing Processes. Applicable Standards include:

- 1) Art. 4.B.10.B.7.a, Operational Standards and Requirements;
- 2) Art. 4.B.10.B.7.b, Construction Standards, excluding depth;
- 3) Art. 4.B.10.B.7.c, Reclamation Standards;
- 4) Art. 4.B.10.C.5.i.2)b)(3), Buffer; and,
- 5) Art. 4.B.10.B.7.e, Maintenance and Monitoring.

### 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:

#### a. Agricultural Excavation

Approval process for Agricultural Excavation is administered by ERM and PZB. Application procedures and requirements are subject to Art. 4.B.10.C.1, Agricultural Excavation. Agricultural Excavation in the WCAA are administered by ERM. Application procedures and requirements are in Art. 4.B.10.C.1.i, WCAA Excavation.

#### b. 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 Art. 4.B.10.B.5.a, Content of Application.

#### c. Type 2 Excavation

The approval process for Type 2 Excavation is administered by PZB and ERM. Application procedures and requirements are in Art. 4.B.10.B.5.a, Content of Application.

#### d. 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 Art. 4.B.10.B.5, Supplemental Application Requirements.

### 4. Prohibitions and Exemptions

#### a. Prohibitions

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

- 1) RR-20 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.

#### b. 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 Art. 2.B, Public Hearing Processes, and shall comply with the provisions in Art. 1.F, Non-Conformities.

- 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.

##### 2) Pools

Swimming pools, pursuant to Art. 5.B, Accessory Uses and Structures.

##### 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

Burial plots in approved Cemeteries.

**5) R-O-W**

Excavation in a road R-O-W, when the road is under construction. To qualify for this exemption, excavation shall be performed by PBC, the FDOT, or any Water Control District created by Special Act to operate under F.S. ch. 298 (1995). Excavation activity located outside the R-O-W boundary, performed to accommodate roadway drainage, and which creates a permanent open body of water for a period of 180 days or more, shall comply with the standards of a Type 2 Excavation in Art. 4.B.10.C.4, Type 2 Excavation.

**6) Utilities**

Excavations necessary for the installation of utilities, including septic systems.

**7) Man-Made Drainage Structures**

The repair, reconstruction, and maintenance of existing non-tidal man-made canals, channels, control structures with associated riprap, erosion controls, intake structures, and discharge structures, provided:

- a) All spoil material is deposited directly to a self-contained upland site, which will prevent the release of material and drainage from the spoil site into surface waters of the State;
- b) No more dredging is performed than is necessary to restore the canal, channels, and intake, and discharge structures to original design specifications or as amended by the applicable permitting agency; and,
- c) Control devices in use at the dredge site that prevent the release of turbidity, toxic, or deleterious substances into adjacent waters during the dredging operation.

**8) WCAA Canals**

Canals of conveyance located in the WCAA which require permits from SFWMD or DEP, provided the permitted project does not exceed 15 feet in depth from OWL.

**9) Mitigation Projects**

Mitigation projects permitted by SFWMD, DEP, or ERM, pursuant to F.S. ch. 403 and F.S. ch. 373, and Chapter 62-312, F.A.C., as amended, and Art. 14, Environmental Standards, including projects approved to implement an adopted Surface Water Improvement & Management (SWIM) plan, provided the permitted project depth does not exceed 20 feet from OWL or 15 feet from OWL in the WCAA. Projects proposed to exceed these depths shall comply with Art. 4.B.10.B.5, Supplemental Application Requirements, the administrative waiver requirements of Art. 4.B.10.B.8, Administration and Enforcement, and the technical standards of Art. 4.B.10.B.7.a, Operational Standards and Requirements, Art. 4.B.10.B.7.b.1), Separation, Art. 4.B.10.B.7.b.2), Slopes, Art. 4.B.10.B.7.c, Reclamation Standards, and Art. 4.B.10.B.7.d, Performance Guarantee Requirements.

**10) Wetlands**

Excavation activities within jurisdictional wetlands that have been issued permits pursuant to Wetlands Protection requirements or have been issued a permit for wetland impacts through the Environmental Resource Permit (ERP) process by DEP, USACE, SFWMD, or any other agency with ERP delegation for PBC.

**11) Agricultural Ditches**

Agricultural ditches supporting vegetation production which meet the standards of Bona Fide Agriculture (i.e., groves, row crops, hay, and tree farming) constructed solely in uplands that are less than six feet in depth from OWL. These ditches shall not connect to canals of conveyance or waters of the State without the appropriate Federal, State, and Local approvals and permits.

**12) De Minimis Impact**

Those projects for which ERM and PZB approval is necessary and both Departments determine that there will be no significant adverse environmental or land use impacts. A *de minimis* determination from one Agency does not constitute approval by the other.

**13) Canals of Conveyance**

Canals of conveyance that require permits from SFWMD, USACE, DEP, or ERM pursuant to Wetlands Protection requirements.

**14) Excavation by Public Agencies**

- a) Excavation performed by or special districts created by special legislative act governed by the BCC, provided such excavation complies with the following:
  - (1) solely under the jurisdiction, authority, and control of PBC, or the applicable district;
  - (2) completed, operated, and maintained in perpetuity by PBC, or the applicable special district;
  - (3) an official part of the operation and function of PBC, or the applicable special district.

- (4) In order to be exempt under this provision, the PBC Department or applicable district shall:
  - (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,
  - (c) provide written notification of the public hearing required 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 Art. 4.B.10.C.1.c, Maximum Depth, and Art. 4.B.10.C.2.g, Depth, the chloride and TDS requirements shall apply.

**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. ch. 298 and within PBC.

**5. Supplemental Application Requirements**

**a. Content of Application**

All Type 1B, Type 2, Type 3A, and Type 3B 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:

- 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 Art. 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.

**b. Additional Application Requests for Excavation, Type 3A and Type 3B**

All applications for Type 3A and Type 3B Excavations shall require the additional information listed below.

**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) Art. 4.B.10.B.7.a, Operational Standards and Requirements, as applicable;
- 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.

**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) Art. 4.B.10.B.7.b, Construction Standards;
- b) Art. 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.

**6) Haul Route Plan**

A map indicating all possible proposed haul routes within the radius of impacts. 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.

**7) Additional Information**

**a) Report Schedule**

Report Schedule, pursuant to Art. 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 Art. 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 Art. 4.B.10.B.7.c.4)d), Calculating Planting Requirements.

**6. Notice of Intent to Construct**

All applications for Agricultural, WCAA, Type 2 Excavation, and Type 3 mining activities shall submit a Notice of Intent to Construct in accordance with the provisions below:

**a. 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.

**b. Contents of Notice of Intent to Construct**

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 Art. 4.B.10.B.7.c.5), Area of Record;
- 3) Art. 4.B.10.B.7.c.3), Littoral Planting Reclamation Standards;
- 4) Master Plan, showing all phases of development, if applicable; and,
- 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.

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).

**c. Agriculture Excavation**

All Agricultural and WCAA Excavation shall submit a detailed explanation of the proposed Bona Fide Agriculture use. This explanation shall demonstrate consistency with applicable industry standards and shall satisfy the definition requirements of Bona Fide Agriculture pursuant to Art. 4.B.6.C, Definitions and Supplementary Use Standards for Specific Uses.

**d. Type 3 Exceptions**

A Type 3 application shall include documentation of an approval for a Class A Conditional Use pursuant to Art. 2.B, Public Hearing Processes.

**e. 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 Land Development Division that all necessary approvals for County R-O-Ws have been issued.

## 7. Technical Standards

### a. 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 Art. 5.E, Performance Standards, and Chapter 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 set back 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 Art. 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 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 Rule 40E-20.302(3), F.A.C. 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.

#### 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.

#### 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 construction of turn lanes and other roadway improvements necessary to provide safe traffic movement.
- (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) Executed Agreement**

The BCC or the County Engineer may require an executed agreement between the Applicant and the County Engineer and other applicable road maintenance authorities 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 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.

**11) Phasing**

In the event the excavation activity is conducted in phases, the Phasing Plan required by Art. 4.B.10.B.7.a, Operational Standards and Requirements, shall be subject to Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval, Art. 2.E.2.C, Time Limitations for Commencement, and the requirements in Art. 4.B.10.B.7.c, Reclamation Standards. All excavation types, except Type 3A and Type 3B shall comply with Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval, 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 3A and Type 3B 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.

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

**3) Final Site Conditions**

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

**c. Reclamation Standards**

**1) General**

**a) Types of Reclamation**

Four types of reclamation standards are defined below. Reclamation standards vary based on the type of excavation activity as set forth in this Section.

**(1) Excavated Area**

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

**(2) Littoral Planting**

This area includes all plantings waterward from edge of OWL or plus one OWLs.

**(3) Upland**

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

**(4) Upland Planting**

This area includes all plantings landward of the top of bank and requires stabilization of soil and reestablishment of native upland vegetation.

**2) Excavated Area Reclamation Standard**

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

**3) Littoral Planting Reclamation Standards**

All Agricultural (excluding WCAA), Type 2, and Type 3 Excavations, excluding ponds, shall comply with the following littoral zone standards. Exempted excavations within the WCAA shall provide a littoral zone if the land use ceases to be agricultural.

**a) Planted Littoral Zones**

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

**b) Vertical Walls**

Vertical walls, bulkheads, or other means of hardening the shoreline may be allowed, however, for each linear foot of vertical wall, an additional eight square feet of planted

littoral zone shall be required. Thus every linear foot of vertical wall shall require 16 square feet of planted littoral zone to be planted.

**c) Planting Requirements**

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

**d) Timing of Planting**

Planting of the excavated lake or pond shall occur no later than immediately prior to the issuance of the first Certification of Occupancy for any lot adjacent to or abutting the bank of that lake. ERM may approve in writing a Phasing Plan for planting large single-lake systems or interconnected multi-lake systems that would allow lake planting to be phased. At all times, Applicant is responsible for minimizing erosion of the littoral shelves until the planting is completed. ERM shall be notified within 48 hours prior to completion of the littoral zone planting.

**e) Littoral Planting Plans**

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

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

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

**4) Upland Reclamation Standards**

Upland reclamation standards apply to Type 2 and all Type 3 Excavations only.

**a) Reclamation Plan**

**(1) General**

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

**(2) Type 2 Excavation**

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

**(3) Type 2 Excavation Exceeding Off-Site Removal Limitations**

As set forth in Art. 4.B.10.C.4, Type 2 Excavation, shall be classified as a Type 3A Excavation when the Applicant proposes to remove more than ten percent of the fill off site. Notwithstanding Final Site Plan certification, the final site development plan shall function as the reclamation plan and planting requirements shall be met in accordance with the landscape requirements for the final site development plan. In such cases, the BCC may waive all or modify a portion of the explicit upland reclamation planting requirements defined below based on the ultimate use of the site. The BCC may require that the upland reclamation plantings defined below be incorporated into the open space pedestrian system as defined on the final site development plan.

**(4) Type 3 Excavation**

The reclamation plan for a Type 3 Excavation shall comply with the upland reclamation standards in this Section.

**b) Perimeter Reclamation**

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

**c) Timing of Upland Reclamation**

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

**(1) Timing of Planting**

If excavation activity is phased, planting shall occur at the completion of each phase. Planting of the reclaimed upland area should occur during the rainy season (June through 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 Art. 4.B.10.C.5, Type 3 Excavation, 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 Art. 7.D, Landscape Standards, and Art. 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 certified Engineer or Surveyor as applicable, recognized and approved by the FDPR. If a plat is required, pursuant to Art. 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 applicable, and recorded restrictive covenant shall be provided to ERM and PZB, prior to issuance of written approval of the Notice of Intent to Construct. Within 30 days following plat recordation, a copy of the recorded plat shall be provided to ERM and Zoning Division. An Applicant may submit a written request to ERM to approve the termination of a recorded restricted covenant agreement provided the DO has been rescinded and no excavation of any water management tract has occurred. A copy of the termination of the restrictive covenant shall be provided to ERM. A restrictive covenant may be amended upon written request by an Applicant and approval by ERM. The littoral area and reclaimed upland planting area shall be specifically and separately reserved to the owner, or if applicable, to the Property Owners' Association as its perpetual maintenance responsibility, without recourse to PBC or any other governmental entity or agency. The plat, if applicable, restrictive covenant, and Property Owners' Association documents, shall contain the following statement: [Ord. 2019-034]

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

**d. Performance Guarantee Requirements**

**1) General**

ERM shall administer guarantee requirements for the excavated area and littoral plantings. The Zoning Division shall administer guarantee requirements for reclaimed upland area, and upland plantings. The Land Development Division shall administer guarantee requirements associated with road maintenance and repair of haul routes if required by the BCC or County Engineer executed agreement pursuant to Art. 4.B.10.B.7.a.10)b), Executed Agreement.

**2) Guarantees Required**

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

**a) Agricultural and Type 2 Excavations**

Agricultural and Type 2 Excavations shall be required to provide a guarantee for the littoral zones. If approved as a Class A Conditional Use, guarantees may also be required for the excavated area, upland reclamation (excluding upland plantings), and roadway maintenance and repair.

**b) Type 3 Excavation**

Approval of at least five guarantees shall be required for Type 3 Excavation:

- (1) excavated areas;
- (2) reclaimed upland areas;
- (3) upland planting areas; and,
- (4) littoral zones.

c) Approval may be required for Type 3 Excavation for road maintenance and repair.

**3) Execution**

The performance guarantee shall be executed by a person or entity who owns a property in part or in whole or has legal interest in the property. Transfer of title to the subject property shall not relieve the need for the performance guarantee. The seller shall maintain, in full force and effect, the original performance guarantee until it is replaced by the purchaser. [Ord. 2019-034]

**4) Form of Guarantee**

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

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

**5) Amount of Guarantee**

**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**

The 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**

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 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.

**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 approval 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 for road maintenance and repair shall be approved by the Land Development Division prior to issuance by ERM of the Applicant's Notice of Intent to Construct.

**7) Duration and Release**

The guarantee for the excavated area and upland reclamation area of Type 3 Excavation 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.

**a) Excavated Areas for Type 3 Excavation**

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 Art. 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 Art. 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 Art. 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**

When required, the guarantee shall be released by the County Engineer and any applicable road maintenance authority after certification of the final phase of the as-built plan and upon final inspection and acceptance of the repair, maintenance, and condition of the streets within the radius of impact.

**8) PBC Use of Guarantee**

Should PBC find it necessary to use the performance guarantee for corrective work or to fulfill the Applicant’s reclamation, reconstruction, or maintenance obligations as set forth herein, the Applicant shall be financially responsible for all legal fees and associated costs incurred by PBC in recovering its expenses from the firm, corporation, or institution that provided the performance guarantee.

**e. Maintenance and Monitoring**

The following maintenance and monitoring program is required for all planted littoral zones and reclaimed planted upland areas.

**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 Art. 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 landowner 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 storage, maintenance, 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 landowner or entity having maintenance responsibility for the planted littoral zone and planted upland reclamation area, shall maintain these areas in the following manner.

- 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 Art. 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.



## **8. Administration and Enforcement**

### **a. 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 Art. 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 Art. 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;
- 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 Art. 4.B.10.B.7.b, Construction Standards, unless the item specifically allows approval by ERM; nor for any excavation or mining 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 Agriculture operations. If the land use changes from Bona Fide Agriculture 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 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.

**b. 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 Chapter 62-302, F.A.C.; or,
- g) dewater in Type 1A, Type 1B, and Agricultural Excavations unless otherwise permitted by a State agency, Federal agency, or the SFWMD.

**c. Enforcement**

Violation of each provision of this Section, any Conditions of Approval, or any of those violations listed in Art. 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 CO be withheld. Violations of the provisions of this Section shall be punishable by one or more of the following:

- 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 Art. 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. ch. 125 and F.S. ch. 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 Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval, and Art. 10, Enforcement.

**d. 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.

**e. 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.

**f. 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.

**9. Appeals**

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.14, Appeal.

## **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.

### **1. Agricultural Excavation**

#### **a. Definition**

Excavation necessary to support Bona Fide Agriculture 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.

#### **b. Separation and Setbacks**

In addition to the separation requirements in Art. 4.B.10.C.1, Agricultural Excavation, shall maintain a minimum setback of 100 feet, measured from the inside edge of the lake maintenance easement to any adjacent property line.

#### **c. Maximum Depth**

Excavation activity shall not exceed 20 feet from OWL. This maximum depth may be exceeded if approved by ERM in accordance with Art. 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 Rule 62-520.420(2), F.A.C. in the excavated lake based on groundwater 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.

#### **d. 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.

#### **e. Reclamation, Maintenance, and Monitoring**

Agricultural Excavation shall comply with the excavated area, and littoral zone reclamation requirements of Art. 4.B.10.B.7.c, Reclamation Standards, and Art. 4.B.10.B.7.c.2), Excavated Area Reclamation Standard, Art. 4.B.10.B.7.c.3), Littoral Planting Reclamation Standards, Art. 4.B.10.B.7.c.5), Area of Record, and Art. 4.B.10.B.7.e, Maintenance and Monitoring requirements, and Art. 4.B.10.B.8.e, Additional Remedies, unless waived by ERM.

#### **f. Use Approval and Procedures**

All applications for Agricultural Excavation shall include a detailed explanation of the proposed Bona Fide Agriculture use. This explanation shall demonstrate consistency with applicable industry standards and satisfy the definition requirements of Bona Fide Agriculture pursuant to Art. 4.B.6.C, Definitions and Supplementary Use Standards for Specific Uses. The excavation shall be the minimum necessary to implement the proposed Bona Fide Agriculture use.

##### **1) Two Acres or Less – DRO**

Agricultural Excavation consisting of two acres or less in surface area, may be approved pursuant to Art. 2.G.4.G, Development Review Officer (DRO). The DRO shall review for compliance with the standards of this Section and may approve the application with or without conditions.

##### **2) Greater Than Two Acres – Conditional Use**

Off-site removal shall apply the appropriate compatibility standards of Art. 4.B.10.C.5, Type 3 Excavation.

##### **3) Additional Review**

See Art. 4.B.10.C.5.g.1), Excavation Pre-Application Checklist.

#### **g. Guarantee Requirements**

Agricultural Excavation shall comply with the guarantee requirements pursuant to Art. 4.B.10.B.7.d, Performance Guarantee Requirements.

#### **h. Notice of Intent to Construct**

In accordance with Art. 4.B.10.B.6, Notice of Intent to Construct, shall be required.

#### **i. WCAA Excavation**

##### **1) Operational and Construction Standards**

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

**2) Separations and Setbacks**

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

**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 Art. 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 Rule 62-520.420(2), F.A.C. within the excavated lake or pond based on groundwater sampling prior to construction. Additional sampling may be required during and after construction.

**4) Sediment Sump**

A sediment sump 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.

**5) Approval and Procedures**

All applications for WCAA Excavation shall include a detailed explanation of the proposed Bona Fide Agriculture use. This explanation shall demonstrate consistency with applicable industry standards and shall satisfy the definition requirements of Bona Fide Agriculture pursuant to Art. 4.B.6.C, Definitions and Supplementary Use Standards for Specific Uses. Excavation shall be the minimum necessary to implement the Bona Fide Agriculture use.

a) Additional Requirement. See Art. 4.B.10.C.5.g.1), Excavation Pre-Application Checklist.

**6) Notice of Intent to Construct**

In accordance with Art. 4.B.10.B.6, Notice of Intent to Construct, shall be required.

**2. Type 1A 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.

**b. Lot Size**

A minimum of one acre.

**c. Excavated Surface Area**

The maximum surface area of all excavation on the premises shall be less than one-fifth acre or 8,712 square feet.

**d. Off-Site Removal**

Off-site removal of extracted material is prohibited.

**e. Separation and Setbacks**

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

- 1) 15 feet at the time of construction from any adjacent property line. The top of bank shall be a minimum of five feet.
- 2) 50 feet from any potable water well.
- 3) 100 feet from any septic system pursuant to Art. 15.A, PBC Environmental Control Rule I – Onsite Sewage Programs (OSP). [Ord. 2022-019]

**f. Slope**

If a lake excavated prior to June 16, 1992, does not comply with the minimum slope requirements of Art. 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.

**g. Depth**

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

**h. Reclamation**

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

- 1) Compliance with the slope and drainage and reclamation standards of Art. 4.B.10.B.7.b, Construction Standards, shall be required.
- 2) The Property Owner shall submit a Certificate of Compliance sealed by a registered land Surveyor to the Building Division depicting:
  - a) an as-built survey showing the location, size, and depth of the excavated area; and
  - b) in cases where no permanent water body is created, the Site Plan submitted with the Building Permit shall serve as the reclamation plan.

**i. 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.

**1) Application Requirements**

The Building Permit plans shall be supplemented with the following information:

**a) Site Plan**

A general Site Plan complying with the standards of this Section;

**b) Statement**

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

**c) Notarized Authorization**

Notarized authorization from the Property Owner to excavate.

**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.

**3. Type 1B 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.

**b. Lot Size**

A minimum of two and one-half acres.

**c. 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.

**d. Off-Site Removal**

Off-site removal of extracted material is prohibited.

**e. Separations and Setbacks**

In addition to the separation requirements of Art. 4.B.10.B.7.b, Construction Standards, Type 1 Excavation shall maintain the following minimum setbacks:

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

2) 50 feet from any potable water well.

3) 100 feet from any septic system pursuant to Art. 15.A, PBC Environmental Control Rule I – Onsite Sewage Programs (OSP). [Ord. 2022-019]

**f. Maximum Depth**

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

**g. Reclamation**

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

1) Compliance with the slope angle, drainage, and reclamation standards of Art. 4.B.10.B.7.b, Construction Standards.

2) The Property Owner shall submit a Certificate of Compliance sealed by a registered land Surveyor to the DRO depicting:

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

b) In cases where no permanent water body is created, the Building Permit Site Plan shall serve as the reclamation plan.

**h. 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.

**1) DRO Approval**

Pursuant to Art. 2.C, Administrative Processes: DRO approval shall be required. The DRO shall review for compliance with this Section and may approve the application with or without conditions.

**2) Duration**

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

#### **4. Type 2 Excavation**

##### **a. Definition**

Excavation necessary to create a lake or lakes required to implement a Development Order.

##### **b. Location**

A Type 2 Excavation may be permitted to implement a Development Order for a principal use as allowed in this Section, and to implement a Final Master Plan, Final Site Plan, or Final Subdivision Plan approved by the DRO.

##### **c. Standards**

An application for a Type 2 Excavation shall comply with the following requirements:

- 1) Art. 4.B.10.B.7.a, Operational Standards and Requirements, and Art. 4.B.10.B.7.b, Construction Standards;
- 2) Excavated area, littoral zone, and general upland reclamation requirements pursuant to Art. 4.B.10.B.7.c, Reclamation Standards;
- 3) Art. 4.B.10.B.7.d, Performance Guarantee Requirements;
- 4) Art. 4.B.10.B.7.e, Maintenance and Monitoring; and,
- 5) Art. 4.B.10.B.6, Notice of Intent to Construct.

##### **d. Separations and Setbacks**

In addition to the separation requirements in Art. 4.B.10.B.7.b.1), Separation, Type 2 Excavation shall maintain a minimum setback of 30 feet, measured from the top of bank to the perimeter boundary of the Planned Development District, Subdivision, Final Site Plan, streets 80 feet in width or greater, and canal R-O-W. For the purpose of this separation and setbacks provision, the top of bank is considered the waterward edge of the lake maintenance easement.

##### **e. Depth**

The maximum depth of a Type 2 Excavation shall be in accordance with Art. 4.B.10.C.1.c, Maximum Depth.

##### **f. Use Approval and Procedures**

###### **1) DRO Approval**

Prior to initiating Type 2 Excavation activities, the DRO shall review the final site development plan for compliance with the standards of this Section and may approve with or without conditions.

###### **2) Off-Site Removal of Excess Fill – DRO**

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

- a) 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
- b) The removal of the material is the minimum necessary to accommodate on-site drainage requirements or structural fill requirements; and,
- c) The impact of the excavated material will not cause adverse effects to internal Property Owners or internal streets.

###### **3) Off-Site Removal of Excess Fill – Conditional Use**

A minimum of 90 percent of the fill shall be used on site, unless unusual site conditions exist. 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.B.10.C.4.f.2), Off-Site Removal of Excess Fill – DRO, the application shall be subject to the following:

###### **a) Approval Process**

Apply for a Class A Conditional Use process, pursuant to the standards of Art. 2.B.7, Types of Applications for Conditional Uses, Development Order Amendments, Unique Structures, and Type 2 Waivers.

###### **b) Requirements**

The Applicant shall comply with the following standards:

- (1) Art. 4.B.10.B.7.a, Operational Standards and Requirements.
- (2) Littoral Planting Reclamation Standards in Art. 4.B.10.B.7.c.3), Upland.
- (3) Upland Reclamation Standards in Art. 4.B.10.B.7.c.4), Upland Planting.
- (4) Maintenance and Monitoring requirements for excavated areas, and littoral plantings in Art. 4.B.10.B.7.e, Maintenance and Monitoring.
- (5) Buffer requirements in Art. 4.B.10.C.5.i.2)b(3), Type 3A Excavation, Buffer.

(6) Setbacks shall be provided pursuant to Type 2 setback requirements in Art. 4.B.10.C.4.d, Separations and Setbacks.

**c) Frontage**

The development shall have direct frontage on and access to a Collector or Arterial Street depicted on the County's Thoroughfare Identification Map.

**d) 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.B.10.C.5.i, Compatibility Standards.

**4) Excavation, Performed by Public Agency, To Provide Drainage for a Public Street**

a) Excavation activity located outside the street boundary, conducted solely to accommodate drainage for a public street, 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:

- (1) be on land owned by PBC, the State, or a Water Control District created by Special Act to operate under F.S. ch. 298 (1996); or
- (2) be on land granted by easement to and accepted by PBC, the State, or a Water Control District; and,
- (3) be the absolute minimum necessary to comply with the surface water drainage requirements for the public streets.

b) For the purpose of Art. 4.B.10.C.4, Type 2 Excavation, authorization by PBC, FDOT, or a Water Control District to construct public streets shall constitute a valid Development Order. The excavation design and activity shall only be required to comply with these standards indicated below. No other provision applicable to Type 2 Excavation as contained in this Article shall apply. [Ord. 2018-018]

- (1) Notice of Intent to Construct pursuant to Art. 4.B.10.B.6, Notice of Intent to Construct;
- (2) Operational and construction standards pursuant to Art. 4.B.10.B.7.a, Operational Standards and Requirements, Art. 4.B.10.B.7.b, Construction Standards, and Art. 4.B.10.B.7.a.10), Hauling Standards;
- (3) Littoral zone and general upland reclamation requirements pursuant to Art. 4.B.10.B.7.c, Reclamation Standards; and,
- (4) Maintenance and Monitoring requirements pursuant to Art. 4.B.10.B.7.e, Maintenance and Monitoring.

**5. Type 3 Excavation**

**a. Definition**

The extraction of minerals primarily for commercial purposes.

**b. Classification of Types**

Type 2, or Agricultural Excavation that exceed established criteria, as defined in this Section, are to be considered a Type 3 Excavation. Two classes of Type 3 Excavation (Type 3A and Type 3B) are established to distinguish between the types of mining operations.

**1) Type 3A Excavation**

Excavation activity 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 3A Excavation activity may use dragline, dredging, or earth moving 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.

**2) Type 3B Excavation**

Excavation activity that extracts materials from the earth and may require extensive processing of the material on site. Type 3B Excavation may use dragline, dredging, or earth moving 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.

**c. Standards**

An application for a Type 3 Excavation shall comply with the following requirements:

- 1) Operational and construction standards pursuant to Art. 4.B.10.B.7.a, Operational Standards and Requirements, and Art. 4.B.10.B.7.b, Construction Standards.
- 2) Excavated area, littoral zone, and upland reclamation requirements pursuant to Art. 4.B.10.B.7.c, Reclamation Standards.

- 3) Art. 4.B.10.B.7.d, Performance Guarantee Requirements.
- 4) Art. 4.B.10.B.7.e, Maintenance and Monitoring.

**d. Location**

A Type 3 Excavation may be allowed in accordance with this Section. Mining may be allowed with limitations in the zoning districts identified below.

**1) AP Zoning District in the AP FLU Designation**

Mining shall be limited to the support of public road construction projects, agricultural activities, or water management projects associated with ecosystem restoration, regional water supply, or flood protection, on sites identified by the SFWMD or the U.S. Army Corps of Engineers where such uses provide viable alternative technologies for water management. Mining shall demonstrate compliance with standards in Art. 4.B.10.C.5.i, Compatibility Standards.

**e. Depth**

The maximum depth of a Type 3 Excavation shall be in accordance with Art. 4.B.10.C.1.c, Maximum Depth.

**f. Accessory Use**

An Asphalt or Concrete Plant shall be allowed as an accessory use to a Type 3B Excavation, subject to DRO approval and provided that:

- 1) the site is a minimum of 500 acres;
- 2) the use is separated at least one-half mile from any residential use or district; and,
- 3) direct access to the plat is provided from an Arterial Street.

**g. Use Approval and Procedures**

A Class A Conditional Use approval is required for a Type 3 Excavation, in accordance with Art. 2.B, Public Hearing Processes. A Type 3 Excavation 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.

**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 PZB.

**a) 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.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.

**b) Alternative to the Preliminary Assessment Letter**

In lieu of a Preliminary Assessment Letter, the Applicant may submit one of the following to the County:

- (1) An Environmental Resource Permit; or
- (2) Request for Additional Information demonstrating no apparent concerns will be generated from the application.

**c) Conditions of Approval**

The DEP may recommend Conditions of Approval to the BCC to resolve issues related to its regulations.

**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.



**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 Art. 2.C, Administrative Processes.

- a) The Applicant shall submit a Phasing Plan complying with the requirements of Art. 4.B.10.B.5, Supplemental Application Requirements, and Art. 4.B.10.B.6, Notice of Intent to Construct.
- b) 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 Art. 4.B.10.B.7.e, Maintenance and Monitoring, and written authorization by the DRO.
- c) Prior to final site approval by the DRO, ERM shall confirm that the Applicant has provided all necessary State final approved permits.

**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.

**5) Haul Agreement**

The BCC may require, as a Condition of Approval, for an executed agreement for the proposed haul in accordance with Art. 4.B.10.B.7, Technical Standards, prior to issuance of the Notice of Intent to Construct by ERM.

**6) Notice of Intent to Construct**

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

**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 Art. 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 Art. 4.B.10.B.7.e, Maintenance and Monitoring.

**h. Annual Report**

For the purpose of Type 3 Excavation, the owner shall submit an Annual Report to Monitoring 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:

**1) General**

- a) Acres mined to date;
- b) Tonnage removed/sold including a copy of the resource extraction fee receipt to the County;
- c) Status of each phase;
- d) Updates to Master/Site Plans;
- e) 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;
- f) Status of compliance with conditions contained within the approved Resolution(s);
- g) Status of compliance with all required permits including the most recent compliance inspection from subject agencies, and status of any identified notice of non-compliance/violations;
- h) 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,
- i) Certification and documentation that all seismograph instruments have been recalibrated during the calendar year.

## 2) Agencies

Address the following agency requirements:

### a) Archaeological

- (1) Status of found artifacts and their location(s); and
- (2) Copy of notification(s) to County and State Archaeologist and current status.

### b) Engineering

- (1) Status of potential road construction requirements, signalization, and R-O-W acquisitions.

### c) Environmental

- (1) Status of Notice of Intent to Construct (NIC) Conditions of Approval and compliance with administrative waivers;
- (2) Status of extraction fee; and,
- (3) Water quality data from designated sampling location from FDEP.

### d) Health

- (1) Status of compliance for any onsite sewage treatment and disposal systems;
- (2) Status of compliance for any onsite drinking water systems; and,
- (3) Status of compliance with BMPs for mosquito control including the need for aerial spraying.

### e) Planning

- (1) 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.

### f) Zoning

- (1) Copy of the daily blasting log;
- (2) Copy of the State Fire Marshall's blast permit; and,
- (3) Status of the upland reclamation requirements.

## i. Compatibility Standards

A Type 3 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 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.

### 1) General

The following standards shall apply to both Type 3A and Type 3B mining activities.

#### a) 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 a Type 3 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 effect on surrounding residential uses, and may condition the project to obtain a haul permit in accordance with Art. 4.B.10.B.7.a.10), Hauling Standards.

#### (1) 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 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.

**b) Separation from Other Land Uses**

Minimum separations from protected land uses are defined in Art. 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 Art. 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.

**(1) 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.

**c) 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.

**d) 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.

**e) Noise**

Airborne noise produced from the excavation activity shall comply with the noise provisions in Art. 5.E, Performance Standards, as measured at the nearest inhabited structure. The sound level limits are allowed to increase for a limited duration. For this limited period, noise generated by excavation projects may increase up to ten decibels more than permitted by Table 5.E.4.B, Maximum Sound Levels. In addition, the noise level may increase to a maximum of 120 decibels once each weekday (Monday through Friday) for a maximum of ten seconds.

**2) Type 3A Excavation**

**a) Restrictions in the RR FLU Designation**

**(1) Lot Size**

A minimum of 40 acres.

**(2) 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.

**b) General**

The following standards shall apply to a Type 3A Excavation:

**(1) Minimum Separations and Setbacks**

In addition to the separation requirements in Art. 4.B.10.B.7.b, Construction Standards, a Type 3A Excavation shall maintain the following separations and setbacks from adjacent uses as provided below.

**(a) 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.

**(b) Setbacks**

**Table 4.B.10.C – Setbacks**

	Residential	Commercial	Industrial/ Agricultural	Streets
<b>Excavated Lake Edge</b>	100'	50'	50'	50'
<b>Processing Equipment</b>	600'	200'	200'	200'
<b>Stockpiles</b>	300'	200'	100'	200'
<b>Accessory Buildings and Structures</b>	100'	100'	100'	200'

**(2) Stockpile Height**

Stockpile height shall be limited to 30 feet.

**(3) Buffer**

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

**(a) 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 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 Art. 7.E, Existing Native Vegetation, Prohibited, and Controlled Plant Species, and in Art. 14.C, Vegetation Preservation and Protection.

**(b) 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 3A 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 applicable Sections of Art. 7.C, Landscape Buffer and Interior Landscape Requirements, shall be installed in conjunction with subsequent development.

**(c) 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 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:

- i. all streets;
- ii. all residential zoning districts;
- iii. 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 Agriculture purposes; and,
- iv. commercial zoning districts.

**3) Type 3B Excavation**

**a) Restrictions in the RR and SA FLU Designation**

**(1) Lot Size**

A minimum of 100 acres.

**(2) Maximum Surface Area**

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

**b) General**

A Type 3B Excavation shall comply with the following criteria:

**(1) Minimum Separations and Setbacks**

In addition to the separation requirements in Art. 4.B.10.B.7.b, Construction Standards, a Type 3B 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 in Art. 4.B.10.C.5.i, Compatibility Standards, and shall have separation requirements set by the BCC.

**(a) 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.B.10.C.5.i.1)b), Separation from Other Land Uses, above.

**(b) Setbacks**

Minimum setbacks shall be provided based on separations from uses as indicated below.

**(c) Separation from Commercial and Industrial Uses**

Commercial: One-half mile

Industrial: One-eighth mile

**Table 4.B.10.C – Setbacks Based on Separation from Residential Uses**

Uses	Separations			
	1 Mile	2 Miles	1/4 Mile	1/8 Mile
Mined Lake Edge	50'	100'	500'	1,200'
Processing Equipment	100'	300'	800'	1,400'
Stockpiles	100'	300'	700'	1,300'
Accessory Buildings and Structures	100'	100'	100'	100'

**(2) Mining Impact Study**

A Mining Impact Study shall be submitted for a Type 3B 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 Art. 4.B.10.C.5.i, Compatibility Standards. The study shall also demonstrate how these operations will impact surrounding land uses.

(a) 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 PBC's consultant shall be borne by the Applicant.

**(3) 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.

**(4) 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 Art. 7, Landscaping.

**(a) Existing Native Vegetative Buffer**

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.

**(b) 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 Art. 7.C, Landscape Buffer and Interior Landscape Requirements, shall be installed in conjunction with subsequent development.

**(c) Type 3 Incompatibility Buffer**

Sites within a one-quarter mile of a public or private street, 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.

**(d) 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:

- i. All residential zoning districts; and
- ii. 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 Zoning District if the land is used solely for Bona Fide Agriculture purposes.

**c) 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.

**d) Notice of Intent to Construct**

Compliance with Art. 4.B.10.B.6, Notice of Intent to Construct.

**j. Extraction Fee for Impacts**

To offset the impacts of mining, a natural resource extraction fee is to be provided yearly for this mining operation from the operators of this mine or its successors. The basis for the extraction fee is calculated at five cents per ton of material sold from the mine. The tonnage will be calculated at the end of each calendar year with the information provided to ERM by January 31 of the succeeding year with the payment of five cents per ton provided by February 15. The funds will be used for environmental enhancement and compliance and monitoring activities which include, but are not limited to: purchase land; restore land to a more natural state; and, enhance the flora and fauna of already preserved natural areas. The natural resources extraction fee shall escalate annually at the rate prescribed by F.S. § 373.41492(5) as amended. In the event the Legislature of the State of Florida or the County imposes, by legislation, Ordinance, or other means, an extraction fee, tax, or charge, then this natural resources extraction fee shall be reduced by the same amount.