



INTER-OFFICE COMMUNICATION  
PALM BEACH COUNTY  
Planning, Zoning & Building

TO: The Honorable Mary Lou Berger, Mayor  
And Members of the Board of County Commissioners

FROM: Jon MacGillis, ASLA  
Zoning Director 

DATE: November 18, 2015

RE: **Unified Land Development Code (ULDC)  
Use Regulations Project Update - Excavation Uses**

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**Overview**

In a continuing effort to keep the Board updated on the ULDC Use Regulations Project, Zoning staff will be presenting Excavation Uses under the Zoning Director Comments at the BCC Zoning Hearing on December 3, 2015.

The Board was last updated on the Utility Uses and an overall status of the Project on October 22, 2015. In addition, staff provided updates on Industrial and Recreation Uses on February 27, 2014, and on Residential Uses on September 24, 2015 at BCC Zoning hearings.

**Current Status of Project**

The Utility and Excavation Use classification, as currently used in the Code, has been subdivided into 3 use classifications: Utility Uses, Excavation Uses, and Commercial Communication Towers. Staff will only be presenting Excavation Uses at this time. The tentative timeline for adoption Hearings for the project is the second quarter of 2016.

**BCC Update on Proposed Amendments:**

**Overview of Excavation Uses (Attachment 1):**

The proposed amendments include the reformatting of the regulations for consistency with the construction of Article 4, Use Regulations; clarification of authority for interpretation; introduction of definitions on most excavation types; and, update of hauling regulations.

Also, as part of the Request for Permission to Advertise ULDC Amendment Round 2015-02, the BCC will be reviewing amendments for Agricultural Excavation and Type 2 Excavation, to simply reflect the most restrictive approval process in the use matrices for consistency with requirements contained in the existing Supplementary Use Standards. This amendment will be reflected in the Use Regulations Project update on Excavation uses.

In addition, public meetings and discussion of the topic include:

- Public Survey - February 3 to February 21, 2014, to solicit input on recommended changes to the Utility Uses. The public was advised that Zoning staff is anticipating only minor changes to the Excavation standards.
- The Land Development Regulation Advisory Board (LDRAB) Subcommittee meeting on June 11, 2015.



- Proposed amendments presented to LDRAB on June 22, 2015.
- There was a Public Meeting on October 19, 2015 to solicit feedback and answer questions pertaining to the Agricultural Excavation and Type 2 Excavation amendments in Round 2015-02.

**Status of Pending Use Classifications:**

Staff is still reviewing the remaining Use Classifications as outlined below:

1. **Commercial Communication Towers**

Minor revisions and reformatting of Commercial Communication Towers will be presented to the public and interested parties at an upcoming Public Meeting in January - February 2016.

2. **Public and Civic Uses:**

This Use Classification is changed to include the term Institutional for consistency with the Plan policies relate to Institutional and Public Facilities Future Land Use category.

Institutional, Public and Civic Uses

- Public Survey was opened to solicit input from public from - July 14 to August 1, 2014. Staff received one response.
- LDRAB Subcommittee convened on November 9, 2015 to review the proposed amendments.
- Presentation of proposed amendments to LDRAB on November 18, 2015.
- Tentative presentation of these amendments is currently scheduled for the BCC on January 28, 2016 Zoning BCC Agenda.

Transportation Uses

Transportation related uses were relocated from Industrial Uses and Public and Civic Uses and consolidated under a new Transportation Classification to keep uses of similar nature together.

- Public Survey - July 14 to August 1, 2014.
- Tentative presentation to LDRAB Subcommittee in January 2016.

3. **Commercial Uses:**

- Public Survey was opened to solicit comments from - April 31 to May 30, 2014.
- Kick-Off Meeting with Industry and Interested Parties was conducted on May 15, 2014. Staff consolidated the comments and recommendations and considered them in the proposed amendments.
- Adult Entertainment use-no proposed amendments as part of this Use Project update. The County Attorney will recommend updates to the BCC when necessary to ensure consistency with Federal and State laws.

Temporary Uses

- This new classification includes specific relocated Commercial Uses.
- Public Survey was opened to the public to solicit input from - April 31 to May 30, 2014 (As part of Commercial Uses survey).
- Temporary Uses will be presented to Subcommittees, LDRAB and BCC along with Commercial Uses.



#### 4. Agriculture Uses:

- Public Survey was opened to the public to solicit input from - October 1 to October 31, 2014 and April 6 to 24, 2015 (to accommodate agricultural community participation).

Staff has scheduled meetings with each Commissioner in advance of the December 3, 2015 BCC Zoning Hearing to discuss this project update. If you have any questions before the October Hearing, please contact me at 561-233-5234 or William Cross, Principal Site Planner at 561-233-5206.

JM/ MC

Attachments: Attachment 1, Excavation Uses

C: Verdenia C. Baker, County Administrator  
Rebecca D. Caldwell, Executive Director, PZ&B  
Wesley Blackman, AICP, Chairman of the Land Development Regulation Advisory Board (LDRAB)  
Robert Banks, Chief Land Use County Attorney  
Leonard Berger, Chief Assistant County Attorney  
Maryann Kwok, AICP, Deputy Zoning Director, Zoning  
William Cross, AICP, Principal Site Planner, Zoning  
Monica Cantor, Senior Site Planner, Zoning  
Code Revision Staff

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ATTACHMENT 1

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

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

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

CHAPTER B INTERPRETATION OF THE CODE

Section 1 Interpretations

A. Authority

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

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

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

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

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

<b>Reason for amendments:</b> [Zoning] Delete duplicate definition of Agricultural Excavation in Article 1 as standard is already used in Art. 4.B.10, Excavation Uses.
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CHAPTER I DEFINITIONS & ACRONYMS

Section 2 Definitions

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

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

[ReNUMBER Accordingly]

Notes:

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ATTACHMENT 1

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

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

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

- 38. **Excavate or Excavation** - the extraction of minerals from the earth necessary to (1) construct a single family dwelling; or (2) support bona-fide agricultural production operations; or (3) to implement a final site development plan; or (4) any act wherein the earth is cut into, dug, quarried, uncovered, removed, displaced, or deliberately disturbed to create a temporary or permanent body of water, including the conditions resulting there from. Excavation excludes agricultural plowing, site grading, dry retention/detention, demucking and canal dredging in preparation for construction.
- 39. **Excavation**– displacement of soil or sand by the processes not limited to digging, dredging, scooping, or hollowing out.

Part 3. ULDC Art. 2.D.1.G.2.b.7), [Related to Agency Review Expedited Administrative Modifications], (page 41 of 87) is hereby amended as follows:

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

CHAPTER D ADMINISTRATIVE PROCESS

Section 1 Development Review Officer (DRO)

- G. Modifications to Prior Development Orders
  - 2. Expedited Administrative Modifications

b. Agency Review

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

....

Part 4. ULDC Art. 2.D.3.D.1.d, [Related to Type 1B Administrative Variance for Residential Lots of Three Units or Less] (page 43 of 87), is hereby amended as follows:

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

CHAPTER D ADMINISTRATIVE PROCESS

Section 3 Type 1A and Type 1B Administrative Variances

- D. Type 1B Administrative Variances
  - 1. Residential Lots of Three Units or Less

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

....

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

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**ATTACHMENT 1**

**EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)**

1 **Part 5. Table 2.E.3.B - Time Limitation of Development Order for Each Phase, (page 58 of 87),**  
 2 **is hereby amended as follows:**  
 3

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

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

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

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**Part 6. Art. 2.G.3, Appointed Bodies, (pages 75 - 76 and 85 of 87), is hereby amended as follows:**

**Reason for amendments:** [Zoning]

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

10 **CHAPTER G DECISION MAKING BODIES**

11 **Section 3 APPOINTED BODIES**

12 **F. Groundwater and Natural Resources Protection Board**

13 **2. Powers and Duties**

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

23 **G. Development Review Officer (DRO)**

24 **3. Comments and Recommendations**

25 a. The DRO may seek comments and recommendations from the following PBC  
 26 departments and divisions, as well as other local government and state government  
 27 agencies, as deemed appropriate by the DRO: [Ord. 2008-037]  
 28  
 29  
 30 15) Department of Environmental Protection (DEP) for Type ~~## 3~~ 3 Excavation. [Ord.  
 31 **2008-037]**

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ATTACHMENT 1

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

Section 4 STAFF OFFICIALS

H. Director of ERM

2. Jurisdiction, Authority and Duties

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

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

Part 7. Art. 3, Overlays and Zoning Districts, (page 34 and 171 of 234), is hereby amended as follows:

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

CHAPTER B OVERLAYS

Section 9 PBIAO, Palm Beach International Airport Overlay

E. Review Procedures

1. Industrial Rezoning in Residential FLUA Designations

b. Rezoning Criteria

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

CHAPTER E PLANNED DEVELOPMENT DISTRICTS (PDDs)

Section 2 Planned Unit Development (PUD)

G. RR PUD

1. Rural Residential

d. Option 1 – Rural Cluster

3) Development Area

a) Exception

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

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ATTACHMENT 1

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

1  
2 Part 8. New ULDC Art. 4.B.10, Excavation Uses, is hereby established as follows:  
3

<b>Reason for amendments:</b> <u>Zoning</u>
1. Consolidate all zoning districts into one Use Matrix to improve ease of use and better delineate differences in approval processes for standard, Planned Development Districts (PDDs) or Traditional Development Districts (TDDs). Tables consolidated are as follows: Table 3.B.15.F, Infill Redevelopment Overlay (IRO) Permitted Use Schedule; Table 3.E.1.B, PDD Use Matrix; Table 3.F.1.F, TDD Use Schedule; and, Table 4.A.3.A, Use Matrix.

4 **CHAPTER B USE CLASSIFICATION**

5 **Section 10 Excavation Uses**

<b>Reason for amendments:</b>
Amend the Use Matrice for Agricultural Excavation and Type 2 Excavation to indicate the most restrictive approval process in the zoning districts where these uses are allowed. <u>The amendment will not change any of the current approval processes, but ensures the most restrictive approval process is listed in the Use Matrices.</u>
Supplementary Use Standards for Agricultural Excavation and Type 2 Excavation uses include certain provisions that in some situations cause the uses to be subject to Class A Conditional Use approval, while the uses show a lower approval process in the Use Matrix. Code users usually go to the Use Matrix first and may be misled if the supplemental standards are more restrictive.

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EXHIBIT E

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

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

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**B. Common Provisions and General Standards**

**Section 1. Purpose and Intent**

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

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

**Section 2. Applicability**

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

**Aa. Conflicting Provisions**

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

**Bb. Previously Approved Development Orders**

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

~~Technical standards include:~~

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

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EXHIBIT E

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

Section 3. Excavation Types

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

Aa. Agricultural Excavation

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

Reason for amendments: [Zoning]

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

Bb. Type ~~1~~1 Excavation

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

Cc. Type ~~2~~2 Excavation

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

Dd. Type ~~3~~3 Excavation

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

Section 4. Prohibitions and Exemptions

Aa. Prohibitions

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

- 1) ~~f~~ RR-20 FLU Designation.
- 2) ~~f~~ The Pleistocene Sand Ridge.
- 3) ~~f~~ An archeological site, unless approved and requested as a Class A Conditional Use.
- 4) ~~f~~ Publicly owned conservation areas, publicly owned preservation areas or environmentally sensitive lands.
- 5) ~~f~~ Areas otherwise prohibited by this Section.

Bb. Exemptions

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

1) ~~f~~ Existing Lakes

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

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

2) ~~f~~ Pools

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

3) ~~f~~ 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.

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

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

~~b).~~ **Excavations, Canals, Impoundments**

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

**Section 65. Supplemental Application Requirements**

**Aa. Content of Application**

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

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

**2). Site Plan**

A site plan depicting:

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

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

~~3).~~ **Vegetation Permit**

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

~~4).~~ **Aerial**

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

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

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**Bb. Additional Application Requests for ~~Type II~~, Excavation Type III3A and Type III3B**

All applications for ~~Type II~~, Type III3A and Type III3B 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. Article ~~4.D.8.A~~ 4.B.10.B.7.a, Operational Standards and Requirements, as applicable; ~~and,~~
- b. Equipment storage, and stockpile areas, including sizes and heights; ~~and,~~
- c. Location of grading, sorting, crushing and similar equipment necessary for the operation and distribution of excavated material. [Relocated from below Art. 4.B.10.B.5.c.1)a), Additional Application Requests for Type 3A and Type 3B]

**3) Landscape Plan**

A landscape plan indicating the buffers and reclamation planting required.

**4) Cross Sections**

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

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

**5) Operations Plan**

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

<b>Reason for amendments:</b> [Land Development] Relocate Radius of Impact definition to a section that currently contains the terminology instead of keeping it under an unrelated standard that is being proposed to be deleted.
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**6) Haul Route Plan**

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

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

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

~~**1) Site Plan**~~

~~A site plan depicting:~~

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

~~**2) Additional Information**~~

~~**a) Report Schedule**~~

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

~~**b) Location Map**~~

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

~~**c) Phasing Plan**~~

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

**d). Tree Survey**

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

**Section 76. Notice of Intent to Construct**

All applications for Agricultural, WCAA, Type ~~H2~~ excavation, and Type ~~H3~~ mining activities shall submit a Notice of Intent to Construct in accordance with the provisions below:

**Aa. Notice of Intent**

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

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

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

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

**Cc. Agriculture Excavation**

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

**Dd. Type ~~H3~~ Exceptions**

A Type ~~H3~~ application shall include documentation of an approved for Class A Conditional Use pursuant to Article 2.B, Public Hearing Process.

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

**Ee. Written Approval**

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

**Section 87. Technical Standards**

**Aa. Operational Standards and Requirements**

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

**1). Hours of Operation**

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

**2). Objectionable Odors**

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

**3). Emission of Fugitive Particulate Matter**

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

**4). Existing Topsoil**

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

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quality than that of the excavated topsoil and be redistributed to provide adequate growing conditions.

5) ~~Equipment Storage, Maintenance and Service Areas~~

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

6) ~~Regulated Substances~~

All storage and use of regulated substances shall comply with local, state, and federal regulations. All regulated substance dispensing areas shall comply with Best Management Practices. Any spill of any regulated substance shall be reported to the PBCHD within one hour and to ERM within one hour or at the beginning of the next business day.

7) ~~Dewatering~~

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

8) ~~Access to Public Prohibited~~

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

9) ~~Retail Sale of Material~~

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

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

10) ~~Hauling Standards~~

a) ~~General~~

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

~~b. Permit Required~~

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

~~c. Contents of Application~~

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

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

~~d. Guarantee Required~~

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

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

~~The haul permit application shall include BCC or the County Engineer may require an executed agreement between the applicant and the County Engineer and other applicable road maintenance authorities documenting and assessing~~

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

~~f. Designation of Haul Routes~~

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

~~g. Issuance of a Haul Permit~~

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

~~h. Periodic Inspections~~

~~Every six months, for the duration of the project, commencing on the date that original agreement was executed, the applicant shall schedule an inspection with the County Engineer and/or all applicable road maintenance authorities to evaluate and document road deterioration and needed repairs. The County Engineer or applicable road maintenance authority may request a periodic inspection at any time, if deemed necessary to assess the condition of the street or if repairs are needed to ensure the safety of the public.~~

~~i. Responsibility of Applicant~~

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

~~11). Phasing~~

In the event the excavation activity is conducted in phases, the phasing plan required by Article ~~4.D.8.A~~ 4.B.10.B.7.a, Operational Standards and Requirements, shall be subject to Article 2.E, MONITORING, Table 2.E.3.B, Time Limitation of Development Order for Each Phase, and the requirements in Article ~~4.D.8.C~~ 4.B.10.B.7.c, Reclamation Standards. All excavation types, except Type ~~43A~~ and Type ~~43B~~ shall comply with Article 2.E, MONITORING, which limits the project to two primary phases for the purposes of monitoring commencement of the Development Order. Additional sub-phases may be permitted for each primary phase for the purposes of conducting the excavation activity in accordance with this Section. For Type ~~43A~~ and Type ~~43B~~ excavations, the number of phases and the duration of each phase shall be established as a condition of approval. When establishing the condition of approval for the number and duration of each phase, the BCC shall consider the size of the proposed excavation project, existing and proposed surrounding land uses, surrounding FLU designations, and other pertinent information.

~~12). Sound Insulation~~

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

~~Bb. Construction Standards~~

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

~~1). Separation~~

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

- ~~a). wellfield Zone 1 or 300 feet from a public water supply well, whichever is more restrictive;~~
- ~~b). 200 feet from a wetland or in a wetland, unless approved by ERM;~~
- ~~c). 300 feet from a Class ~~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~~

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- 1           **a) Slope Angle**
- 2           Slopes for all excavation types with unplanted littoral zone areas shall be no
- 3           steeper than four feet horizontal to one foot vertical to a minimum depth of minus
- 4           two feet OWL. Slopes below the minus two feet depth shall not exceed two feet
- 5           horizontal to one foot vertical or the natural angle of repose for the specific
- 6           conditions encountered. Grades and slopes shall be constructed in such a
- 7           manner as to minimize soil erosion and to make the land surface suitable for
- 8           revegetation. The slopes shall be adequately vegetated with appropriate ground
- 9           cover from top of bank to edge of water within 30 days of final grading and
- 10          thereafter maintained to prevent wind and water erosion.
- 11          **b) Slope for Planted Littoral Zones**
- 12          The slope for excavation with planted littoral zone areas shall be no steeper than
- 13          ten feet horizontal to one foot vertical to a distance of five feet waterward of the
- 14          designated planted littoral zone area. Shallower slopes are encouraged to
- 15          promote greater success of the littoral zone plantings. A copy of the record
- 16          drawings certified by a surveyor or engineer recognized and approved by FDPR
- 17          shall be submitted to ERM within 30 days following completion of slope
- 18          construction.
- 19          **(1) Inspection**
- 20          Within 48 hours prior to completion of construction of the required slopes for
- 21          the planted littoral zones, notification to ERM is required in order to schedule
- 22          a slope inspection.
- 23          **c) Drainage**
- 24          Overland sheet flow directly into an excavated area shall be minimized. Those
- 25          areas within a maximum of 50 feet of the excavated lake may discharge run-off
- 26          to the lake. This restriction shall not apply to any catchment area discharging
- 27          runoff to a lake designated as a water management tract and incorporated in an
- 28          approved stormwater management plan for treatment and control of runoff from a
- 29          development site, where the boundaries of said catchment are delineated on an
- 30          approved plan.
- 31          **3) Final Site Conditions**
- 32          No sharp declivities, pits, depressions, or debris accumulation shall remain after
- 33          reclamation. Final grading shall conform to the contour lines and grades on the
- 34          approved reclamation plan.
- 35          **c. Reclamation Standards**
- 36          **1) General**
- 37          **a) Types of Reclamation**
- 38          Four types of reclamation standards are defined below. Reclamation standards
- 39          vary based on the type of excavation activity as set forth in Article ~~4-D~~ 4.B.10,
- 40          Excavation Uses.
- 41          **(1) Excavated Area**
- 42          This area includes the depth of a lake and all slopes waterward of the top of
- 43          bank, excluding littoral plantings.
- 44          **(2) Littoral Planting**
- 45          This area includes all plantings waterward from edge of OWL or plus one
- 46          (+1) OWLs.
- 47          **(3) Upland**
- 48          This area includes the land area landward of the top of bank and requires
- 49          that a minimum area of land be maintained or created around the perimeter
- 50          of an excavated area to preserve future use of the land.
- 51          **(4) Upland Planting**
- 52          This area includes all plantings landward of the top of bank and requires
- 53          stabilization of soil and re-establishment of native upland vegetation.
- 54          **2) Excavated Area Reclamation Standard**
- 55          All slopes shall be reclaimed in accordance with Article ~~4-D-8-B~~ 4.B.10.B.7.b,
- 56          Construction Standards, and in Article ~~4-D-8-C~~ 4.B.10.B.7.c, Reclamation Standards.
- 57          Areas not required to be stabilized with littoral plantings shall be stabilized and
- 58          planted with appropriate ground cover from top of bank to the edge of the water. If
- 59          seeding is used, a minimum of 50 percent coverage shall be required. The depth of
- 60          the lake and side slopes shall be comply with Article ~~4-D-8-B~~ 4.B.10.B.7.b,
- 61          Construction Standards.
- 62          **3) Littoral Planting Reclamation Standard**
- 63          All Agricultural (excluding WCAA), Type ~~H2~~ and Type ~~H3~~ Excavations, excluding
- 64          ponds, shall comply with the following littoral zone standards. Exempted excavations
- 65          within the WCAA shall provide a littoral zone if the land use ceases to be agricultural.
- 66          **[Ord. 2006-004]**
- 67          **a) Planted Littoral Zones**
- 68          Planted littoral zones shall be provided which comprise, at a minimum, an area
- 69          equivalent to eight square feet per linear foot of shoreline. Creativity in design in

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1 the placement of the planted littoral zone is strongly encouraged, such as  
2 extended areas in one portion of the lake or at the discharge point. For basins  
3 with multiple lakes that are interconnected, littoral zones may be concentrated  
4 within one or more lakes so long as the basin as a whole contains the total  
5 required littoral area. The planted littoral zone area shall be limited to the area  
6 between one foot above OWL and two feet below OWL. If the applicant  
7 demonstrates to ERM that the planted littoral area elevations should differ from  
8 this requirement based on site specific conditions and based on fluctuations  
9 around the OWL, ERM may approve planted littoral area elevations other than  
10 those elevations stated above. Requirements for littoral zone planting shall be in  
11 addition to any planting for wetland mitigation required by DEP, SFWMD,  
12 USACE, ERM or any other agency with wetland jurisdiction. [Ord. 2005 – 002]  
13 [Ord. 2006-004]

14 **b) Vertical Walls**

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

19 **c) Planting Requirements**

20 The littoral zone shall be provided with a minimum of six inches of a sand topsoil  
21 mix to promote vegetative growth for those areas that do not have adequate soil  
22 conditions to ensure plant survivorship. The littoral zone shall be planted with at  
23 least five species of appropriate native wetland vegetation, with an average  
24 spacing of two feet on center or as approved by ERM. The design and species  
25 used shall be such that the plants have an anticipated minimal 80 percent  
26 coverage. This criterion shall be met from the 180-day monitoring period, and in  
27 perpetuity. The Director of ERM shall maintain a list of acceptable plant species  
28 for use in their appropriate elevations within the littoral zones. The list may be  
29 amended for general application as more information becomes available. The list  
30 shall be open for public inspection and distribution.

31 **d) Timing of Planting**

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

39 **e) Littoral Planting Plans**

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

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

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

52 **4) Upland Reclamation Standards**

53 Upland reclamation standards apply to Type ~~H~~2 and all Type ~~H~~3 excavations only.

54 **a) Reclamation Plan**

55 **(1) General**

56 A site reclamation plan shall be submitted as an integral part of the  
57 application for a Type ~~H~~2 or Type ~~H~~3 excavation and shall be approved by  
58 DRO prior to commencement of work. Reclamation is required to ensure a  
59 viable end use for the excavation site. The plan shall demonstrate  
60 compliance with the requirements in Article ~~4.D.8~~ ~~4.B.10.B.7~~, Technical  
61 Standards, except for the littoral planting plan which has its own application  
62 submittal requirements. However, the reclamation plan submitted to DRO  
63 shall indicate the littoral planting areas.

64 **(2) Type ~~H~~2 Excavation**

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

67 **(3) Type ~~H~~2 Excavations Exceeding Off-Site Removal Limitations**

68 As set forth in Article ~~4.D.5.D~~ ~~4.B.10.C.4~~, Type ~~H~~2 Excavation, shall be  
69 classified as a Type ~~H~~3A Excavation when the applicant proposes to remove

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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 III Excavations**

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

**d) Calculating Planting Requirements**

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

**(1) Sites Supporting Native Vegetation**

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

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

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**e) Upland Planting Reclamation Standards**

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

**f) Plan Requirements**

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

- (1) The signatory of the plans and specifications shall have personal familiarity with the site and soil conditions based upon a field review. The plans shall be signed and sealed by a professional Landscape Architect certified by the Florida Department of Professional Regulation.
- (2) At a minimum, the plans shall detail the location, species and numbers of plants to be used, and the methods for planting and ensuring survival of the plants, and other reasonable information required by ERM.

**g) Phased Projects**

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

- (1) A phasing plan shall be submitted indicating:
  - (a) exact acreage of each phase;
  - (b) proposed duration of excavation and reclamation of each phase; and
  - (c) number of trees to be planted.

**5) Area of Record**

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

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:

It is a punishable violation of PBC Laws, Ordinances, Codes, Regulations and approvals to alter the approved slopes, contours, or cross ~~S~~ections 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.

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

**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.

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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 ~~shall~~ 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 excavations:

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

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

3) Execution

The performance guarantee shall be executed by a person or entity with a legal or financial 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.

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

Guarantee shall be a minimum of 1,000 dollars per acre of permitted excavation area.

c) Littoral Zones

The guarantee shall be a minimum of 10,000 dollars and shall be an amount of no less than 110 percent of the total estimated cost for planting, maintaining, and monitoring the required littoral shelves. ERM retains the option for requesting a second cost estimate for which the performance guarantee is based.

d) Reclaimed Upland and Upland Planting Areas

Guarantee shall be a minimum of 10,000 dollars and shall be an amount of no less than 110 percent of the total estimated cost for reclaiming, planting, maintaining, and monitoring the upland area and required upland planting areas. PZB retains the option for requesting a second cost estimate for which the guarantee is based.

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

~~e. Roadway Maintenance and Repair~~

~~Streets which require a haul permit in order to be used as a haul route shall be required to post a minimum guarantee in the amount of 50,000 dollars per mile of affected streets within the radius of impact.~~

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6) Submittal and Approval of Guarantee

Except in the case of an application by a political subdivision or agency of the State, all applicants shall submit the guarantee instruments and obtain approval of the guarantee as provided below.

a) Reclaimed Upland Area and Upland Planting Areas

Guarantees for the reclaimed upland area and upland planting areas shall be submitted with the DRO application and approved prior to DRO certification of the final excavation plan.

b) Excavated Area and Littoral Zones

Guarantees for the excavated area and littoral zones shall be approved by ERM prior to issuance of written approval of the Notice of Intent to Construct.

c) Road Maintenance and Repair

When required, Guarantees guarantees for road maintenance and repair shall be approved by the Land Development Division prior to issuance by ERM of the applicants Notice of Intent to Construct.

7) Duration and Release

The guarantee for the excavated area and upland reclamation area of Type ~~III~~ ~~eExcavations~~ may be reduced once the "as-built" plan is approved. However, the guarantee shall continue to cover the upland planting and littoral planting areas until released ~~by Palm Beach County in accordance with this subsection.~~

a) Excavated Areas for Type ~~III~~ Excavations

At the request of the applicant, the guarantees shall be released by ERM, after DRO certification of the final as-built reclamation plan, in accordance with Article ~~4.D.5.E.6~~ ~~4.B.10.C.5.g~~, Use Approval and Procedures.

b) Upland Reclamation Area

At the request of the applicant, the guarantees shall be released by PZB, after DRO certification of the final as-built reclamation plan, in accordance with Article ~~4.D.8.C.5~~ ~~4.B.10.B.7.c.5~~, Area of Record.

c) Littoral and Upland Planting Reclamation Areas

The guarantees shall remain in effect a minimum of 730 days (two years) after reclamation is completed in accordance with all requirements of this Section. Guarantees shall not be released until approved plats or separate instruments are recorded and proof of recordation is provided to ERM and PZB, pursuant to Article ~~4.D.8.D~~ ~~4.B.10.B.7.d~~, Performance Guarantee Requirements . Following verification of successful completion of reclamation through approval of the submitted as-builts, area of record, monitoring reports, and site inspection(s) by ERM and PZB, as applicable, guarantees shall be released.

d) Road Maintenance and Repair

When required, ~~The~~ 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.

Ee. 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

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- 1 Inspections, monitoring, exotic plant species removal and replanting during each
- 2 monitoring period shall be required to maintain the minimum:
- 3 1) 80 percent coverage criterion for the planted littoral zone from the 180 day
- 4 monitoring period; and,
- 5 2) 80 percent survivorship for the planted upland area from the 180 day
- 6 monitoring period;
- 7 **b).** **Exotic Plant Species**
- 8 Complete removal of the following plant species from the planted littoral zone
- 9 and upland areas, as applicable:
- 10 1) prohibited and invasive non-native plant species as defined by Article 14.C,
- 11 Vegetation Preservation and Protection; and,
- 12 2) invasive species, such as cattails, primrose willows and water hyacinth.
- 13 **c).** **Regulated Substances**
- 14 Inspections and monitoring of all equipment storage, maintenance and service
- 15 areas shall be required to ensure the site has not been contaminated by
- 16 regulated substances. Construction areas shall be maintained in accordance with
- 17 the "Regulated Substance Best Management Practices for the Construction
- 18 Industry."
- 19 **d).** **Submittals for Monitoring Programs**
- 20 Submittal of monitoring reports for each monitoring period shall be required. The
- 21 planted littoral zone reports shall be submitted to ERM and the reclaimed upland
- 22 planting reports shall be submitted to the Zoning Division. These monitoring
- 23 reports shall represent the monitoring periods commencing with a time zero
- 24 report, 90 day, 180 day and 360 day reports.
- 25 The time zero monitoring report shall be submitted within 30 days of the initial
- 26 planting. Each subsequent report shall be submitted within 30 days of the
- 27 completion of the monitoring period. If following the first year of the maintenance
- 28 and monitoring period, PBC finds the planted littoral or reclaimed planted upland
- 29 areas to be in non-compliance with the provisions herein, the land owner or entity
- 30 having maintenance responsibility may be required by PBC to extend their
- 31 maintenance and monitoring period, until compliance with the maintenance and
- 32 monitoring requirements is met.
- 33 **e).** **Content of Monitoring Reports**
- 34 Each monitoring report, including the time zero report, shall assess the species,
- 35 numbers, and locations of planted littoral zones and reclaimed upland planting
- 36 areas. The report shall also depict the equipment maintenance, storage and
- 37 service areas and assess the condition of the ground as a result of possible
- 38 leakage or spillage of regulated substances. The report shall include multiple
- 39 photographs (panoramas are preferred) of the site clearly showing these areas.
- 40 Photographs must be taken at approximately the same location(s) each time.
- 41 In addition, the report shall detail the species, numbers and locations of
- 42 additional plantings that were made to attain the 80 percent
- 43 survivorship/coverage criteria, if such plantings were necessary.
- 44 **3).** **Long-Term Maintenance and Monitoring of Reclaimed Upland Areas and**
- 45 **Littoral and Upland Planting Areas**
- 46 After the first year, the land owner or entity having maintenance responsibility for the
- 47 planted littoral zone and planted upland reclamation area, shall maintain these areas
- 48 in the following manner.
- 49 **a).** The reclaimed upland areas shall maintain a minimum survivorship of 80 percent,
- 50 and the planted littoral zone shall maintain a minimum coverage of 80 percent.
- 51 **b).** Exotic and invasive non-native plant species as defined by Article 14.C,
- 52 Vegetation Preservation and Protection, such as cattails, primrose willows and
- 53 water hyacinth, shall be restricted to a coverage of less than ten percent of the
- 54 required planted littoral zone. No exotic or invasive non-native plant species shall
- 55 be permitted in the upland areas.
- 56 **4).** **Repair, Reconstruction Modification**
- 57 DRO approval shall be obtained prior to any reconfiguration of the approved lake or
- 58 reclaimed upland area. Written approval from the Director of ERM shall be obtained
- 59 prior to modification of the planted littoral zones.
- 60 **Section 98. Administration and Enforcement**
- 61 **Aa. Administrative Waiver from Construction Criteria for Agricultural, WCAA, Type #2**
- 62 **and Type #3 Excavations**
- 63 **1).** **Authority and Criteria**
- 64 Administrative waivers from the slope, depth, or littoral zone standards contained in
- 65 Article ~~4.D.8~~ **4.B.10.B.7**, Technical Standards, for Agricultural, WCAA, Type #2, and
- 66 Type #3 Excavations may be granted by ERM in accordance with the standards of
- 67 this Section. ERM may grant the waivers to an applicant upon demonstration by a
- 68 preponderance of evidence, that such administrative waivers will not be injurious to
- 69 the area involved or otherwise detrimental to the public welfare, and that special or

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unique circumstances exist to justify the administrative waivers based on one or more of the following conditions:

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

**2) Limitations**

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

**3) Review Process**

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

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

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

**Bb. Violations, Enforcement, and Penalties**

**1) Violations**

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

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

- a) fail to comply with a requirement of this Section, a condition of an approval or an authorized exemption granted hereunder;
- b) fail to comply with the design specifications or littoral planting plan submitted with the Notice of Intent to Construct for which a written approval was issued by ERM;
- c) alter or destroy the approved depths, slopes, contours, or cross-sections;
- d) chemically, mechanically, or manually remove, damage, destroy, cut, or trim any plants in the littoral zones, except upon written approval by the Director of ERM;
- e) dredge, excavate, or mine the lake or littoral zones without prior receipt of approval(s) from ERM and/or PZB;

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- f) cause water quality violations in excess of the standards contained in F.A.C. Chapter 62-302; or,
- g) dewater in Type 1(A), Type 1(B); and Agricultural excavations unless otherwise permitted by a State agency, Federal agency, or the SFWMD, or the dewatering operation is in compliance with the conditions of F.A.C. 40E-20.302(3). [Ord. 2005 – 002]

**Cc. Enforcement**

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

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

**Dd. Restoration**

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

**Ee. Additional Remedies**

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

**Ff. Use of Collected Monies**

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

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

**Gg. Appeals**

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

**1. Director of ERM**

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

**a. Submittal**

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

**b. Hearing**

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

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

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

~~3. Judicial Relief~~

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

**C. Definitions and Supplementary Use Standards for Excavation Uses**

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

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

**Section 5- Excavation Standards**

**A1. Agricultural Excavations**

**a. Definition**

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

**4b. Separation and Setbacks**

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

**2c. Maximum Depth**

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

**3d. Sediment Sump**

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

**4e. Reclamation, Maintenance and Monitoring**

Agricultural ~~e~~Excavations shall comply with the excavated area, and littoral zone reclamation requirements of Article ~~4.D.8.C~~ 4.B.10.B.7.c, Reclamation Standards, and Article ~~4.D.8.C.2~~ 4.B.10.B.7.c.2, Excavated Area Reclamation Standard, Article ~~4.D.8.C.3~~ 4.B.10.B.7.c.3, Littoral Planting Reclamation Standard, Article ~~4.D.8.C.5~~ 4.B.10.B.7.c.5, Area of Record, and ~~4.D.8.E~~ Article 4.B.10.B.7.e, the Maintenance and Monitoring requirements, and Article ~~4.D.9.E~~ 4.B.10.B.8.e, Additional Remedies, unless waived by ERM.

**Reason for amendments:**

1.	Remove supplementary use standard language related to approval as the Use Matrix is amended to indicate the more restrictive approval process;
2.	Update titles to clarify regulations that pertain to DRO or BCC approval.

**5f. Use Approval and Procedures**

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

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**a-1) Two Acres or Less - DRO**

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

**b-2) Greater Than Two Acres - Conditional or Requested Use**

~~Agriculture excavation activity greater than two acres in surface area shall be subject to approval as a Class A Conditional use pursuant to Article 2.B, Public Hearing Process, and this Section. The BCC may permit~~ Off-site removal and shall apply the appropriate compatibility standards of Article ~~4.D.5.E~~ 4.B.10.C.5, Type ~~##3~~ Excavations.

**e-3) Additional Review**

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

**6g. Guarantee Requirements**

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

**7h. Notice of Intent to Construct**

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

**8j. WCAA Excavations**

**a-1) Operational and Construction Standards**

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

**b-2) Separations and Setbacks**

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

**e-3) Depth**

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

**d-4) Sediment Sump**

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

**e-5) Approval and Procedures**

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

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

**f6) Notice of Intent to Construct**

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

**B2. Type ~~1~~A Excavation**

**a. Definition**

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

**1b. Lot Size**

A minimum of one acre.

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- 1 **2c. Excavated Surface Area**  
2 The maximum surface area of all excavation on the premises shall be less than two-  
3 tenths acre or (8,712 square feet).
- 4 **3d. Off-site Removal**  
5 Off-site removal of extracted material is prohibited.
- 6 **4e. Separation and Setbacks**  
7 In addition to the separation requirements in Article ~~4.D.8.B.1~~ **4.B.10.B.7.b.1)**,  
8 Separation, Type ~~1~~**A** Excavation shall maintain the following minimum setbacks,  
9 measured from the inside edge of the lake maintenance easement.  
10 ~~a.1)~~ 15 feet at the time of construction from any adjacent property line. The top of bank  
11 shall be a minimum of five feet.  
12 ~~b.2)~~ 50 feet from any potable water well.  
13 ~~c.3)~~ 100 feet from any septic system pursuant to Article 15.A, ECR | Onsite Sewage  
14 Treatment and Disposal Systems.
- 15 **5f. Slope**  
16 If a lake excavated prior to June 16, 1992, does not comply with the minimum slope  
17 requirements of Article ~~4.D.8.B.2~~ **4.B.10.B.7.b.2)**, Slopes, a minimum four foot high gated  
18 fence completely enclosing the excavated area may be substituted for the required  
19 slopes.
- 20 **6g. Depth**  
21 Excavation activity shall not exceed ten feet in depth below OWL.
- 22 **7h. Reclamation**  
23 The applicant shall comply with the following reclamation requirements prior to issuance  
24 of a CO.  
25 ~~a.1)~~ Compliance with the slope and drainage and reclamation standards of Article ~~4.D.8.B~~  
26 **4.B.10.B.7.b**, Construction Standards, shall be required.  
27 ~~b.2)~~ The property owner shall submit a Certificate of Compliance sealed by a registered  
28 Land Surveyor to the Building Division depicting:  
29 ~~4a)~~ an as-built survey showing the location, size, and depth of the excavated area;  
30 and,  
31 ~~2b)~~ in cases where no permanent water body is created, the site plan submitted with  
32 the building permit shall serve as the reclamation plan.
- 33 **8j. Use Approval and Procedures**  
34 The request shall be made concurrent with an application for a building permit. Approval  
35 shall be issued concurrent with receipt of a building permit for a single family dwelling.  
36 **[Ord. 2008-037]**  
37 ~~a.1)~~ **Application Requirements**  
38 The building permit plans shall be supplemented with the following information: **[Ord.**  
39 **2008-037]**  
40 ~~4a)~~ **Site Plan**  
41 A general site plan complying with the standards of this Section;  
42 ~~2b)~~ **Statement**  
43 A statement estimating the amount of excavated material, in cubic yards; and,  
44 ~~3c)~~ **Notarized Authorization**  
45 Notarized authorization from the property owner to excavate.  
46 ~~b.2)~~ **Determination of Sufficiency, Review and Decision**  
47 A building permit shall be issued by PZB, with or without conditions of approval, after  
48 the application has been determined complete and in compliance with this Section.  
49
- 50
- 51
- 52 **3. Type ~~1~~**B** Excavation**
- 53 **a. Definition**  
54 Excavation necessary to obtain fill for the construction of a single family dwelling or an  
55 accessory structure to a single family dwelling on a lot.
- 56 **4b. Lot Size**  
57 A minimum of two and one-half acres.
- 58 **2c. Excavated Surface Area**  
59 The maximum surface area of all excavation on the premises shall be less than 25  
60 percent of the gross lot area and shall not exceed two acres.
- 61 **3d. Off-site Removal**  
62 Off-site removal of extracted material is prohibited.
- 63 **4e. Separations and Setbacks**  
64 In addition to the separation requirements of Article ~~4.D.8.B~~ **4.B.10.B.7.b**, Construction  
65 Standards, Type ~~1~~**e** Excavations shall maintain the following minimum setbacks:  
66 ~~a.1)~~ 30 feet at the time of construction from any adjacent property line.  
67 ~~b.2)~~ 50 feet from any potable water well.  
68 ~~c.3)~~ 100 feet from any septic system pursuant to Article 15.A, ECR | Onsite Sewage  
69 Treatment and Disposal Systems.

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- 5f. Maximum Depth**  
Excavation activity shall not exceed 15 feet in depth below OWL.
- 6g. Reclamation**  
The applicant shall comply with the following reclamation requirements prior to issuance of a CO.
  - ~~a.1)~~ Compliance with the slope angle, drainage, and reclamation standards Article ~~4.D.8.B~~ **4.B.10.B.7.b**, Construction Standards.
  - ~~b.2)~~ The property owner shall submit a Certificate of Compliance sealed by a registered Land Surveyor to the DRO depicting:
    - ~~4a)~~ An as-built survey showing the location, size, and depth of the excavation.
    - ~~2b)~~ In cases where no permanent water body is created, the building permit site plan shall serve as the reclamation plan.
- 7h. Use Approval and Procedures**  
The request shall be made concurrent with an application for a building permit. Approval shall be issued concurrent with receipt of a building permit for a single-family dwelling. **[Ord. 2008-037]**
  - ~~a.1)~~ **DRO Approval**  
Pursuant to Article 2.D, Administrative Process: DRO Approval shall be required. The DRO shall review for compliance with this Section and may approve the application with or without conditions.
  - ~~b.2)~~ **Duration**  
A Type ~~1~~**B** ~~e~~Excavation permit shall expire 120 days from the date authorization is received to begin excavation activity. The DRO may grant one 90 day extension.



- ~~D4.~~ **Type #2 Excavation**
  - ~~a.~~ **Definition**  
Excavation necessary to create a lake or lakes required to implement a Development Order for a Final Site Plan.
  - ~~4b.~~ **Location**  
A Type ~~#2~~ **e**Excavation may be permitted to implement a ~~s~~Site ~~development~~ **p**Plan for a principal use as permitted in ~~the Use Regulation Schedule Table 4.A.3.A Use Matrix Art. 4.B, Use Classification~~, and to implement a ~~Final m~~Master Plan, ~~Final s~~Site **p**Plan, or final ~~s~~Subdivision **p**Plan approved by the DRO. **[Ord. 2008-037]**
  - ~~2c.~~ **Standards**  
An application for a Type ~~#2~~ **e**Excavation shall comply with the following requirements:
    - ~~a.1)~~ Article ~~4.D.8.A~~ **4.B.10.B.7.a**, Operational Standards and Requirements, and Article ~~4.D.8.B~~ **4.B.10.B.7.b**, Construction Standards;
    - ~~b.2)~~ Excavated area, Littoral zone and general upland reclamation requirements pursuant to Article ~~4.D.8.C~~ **4.B.10.B.7.c**, Reclamation Standards;
    - ~~e.3)~~ Article ~~4.D.8.D~~ **4.B.10.B.7.d**, Performance Guarantee Requirements;
    - ~~d.4)~~ Article ~~4.D.8.E~~ **4.B.10.B.7.e**, Maintenance and Monitoring; and,
    - ~~e.5)~~ Article ~~4.D.7~~ **4.B.10.B.6**, Notice of Intent to Construct.
  - ~~3d.~~ **Separations and Setbacks**  
In addition to the separation requirements in Article ~~4.D.8.B.1~~ **4.B.10.B.7.b.1)**, Separation, Type ~~#2~~ Excavation shall maintain a minimum setback of 30 feet, measured from the top of bank to the perimeter boundary of the ~~m~~Master **p**Planned development, ~~s~~Subdivision, ~~overall~~ **f**Final ~~s~~Site **p**Plan, streets 80 feet in width or greater, and canal R-O-W. For the purpose of this ~~Section-separation and setbacks provision~~, the top of bank is considered the waterward edge of the lake maintenance easement.
  - ~~4e.~~ **Depth**  
The maximum depth of a Type ~~#2~~ **e**Excavation shall be in accordance with Article ~~4.D.5.A.2~~ **4.B.10.C.1.c**, Maximum Depth.

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<b>Reason for amendments:</b> [Zoning/Land Development]
1. Delete redundant language that was intended to clarify regulations applicable to Type 2 Excavation since all regulations contained in the Excavation Uses of Art. 4, Use Regulations, should be considered prior to the operation of any excavation activity.
2. The Use Regulations Project is consolidating the name of approval process for uses subject to Public Hearing through the Board of County Commissioners (BBC) by only using Conditional Use. Currently the Code indicates Requested Uses in the Planned Development District (PDD) and Traditional Development District (TDD) Use Matrices, while the standard zoning districts Use Matrix indicates Conditional Use. Due to this change, any reference to Requested Use needs to be removed from the Code concurrently with this amendment therefore, the standard related to removal of fill has been updated to reflect this change.
3. Remove supplementary use standard language related to approval as the Use Matrix is amended to indicate the more restrictive approval process.
4. Update titles to clarify regulations that pertain to DRO or BCC approval.
5. Relocate and consolidate language related to removal of fill in excess of ten percent.

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**5f. Use Approval and Procedures**

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

**a.1) DRO Approval**

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

**b.2) Off-site Removal of Excess Fill ~~from the Site - DRO~~**

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

- 4a) The applicant demonstrates that the make up of the natural soil contains an excessive amount of silt, rock, or muck and construction of required drainage structures or construction of required structural foundations require removal of an excessive amount of silt, rock or muck; or,
- 2b) The removal of the material is the minimum necessary to accommodate on-site drainage requirements or structural fill requirements; and,
- 3c) The impact of hauling the excavated material off-site will not cause adverse affects to adjacent internal property owners or internal streets.

**c.3) Off-site Removal ~~of Excess Fill - Conditional or Requested Use~~**

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

**4a) Removal of Excess Fill Approval Process**

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

**b) Requirements**

The applicant shall comply with the following standards:

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

**4c) Frontage**

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

**2d) Location**

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

**~~d.4) Excavation, Performed by Public Agency, To Provide Drainage For A Public Street~~**

**4a)** Excavation activity located outside the street boundary, conducted solely to accommodate drainage for a public streets and performed or caused to be performed by contract with a public agency, as defined herein, shall comply with the standards below. The excavation activity shall:

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

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

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

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

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

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

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

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



<b>Reason for amendments:</b> [Zoning/Land Development]
1. Introduce Type 3 Excavation definition to differentiate from other types of excavation by indicating it is generally intended for commercial purposes. This definition consolidates existing language from Type 3 Excavations A and B.

**~~E5. Type ##3 Excavations~~**

**~~a. Definition~~**

~~The extraction of minerals primarily for commercial purposes.~~

**~~1b. Classification of Types~~**

~~An excavation that meets the definition of mining is considered commercial operations.~~ Type ~~##2~~, or Agricultural ~~eExcavations~~ that exceed established criteria, as defined in this Section, are to be considered a Type ~~##3~~ ~~eExcavation~~. Two classes of Type ~~##3~~ ~~eExcavations~~ (Type ~~##3A~~ and Type ~~##3B~~) are established to distinguish between the types of mining operations. [Ord. 2008-037] [Partially relocated above under definition]

**~~a.1) Type ##3A Excavation~~**

~~Mining Excavation~~ activity, ~~primarily for commercial purposes~~, that extracts materials from the earth and may require limited on-site processing by using temporary or portable crushers, sifters and conveyor systems. A Type ~~##3A~~ ~~eExcavation~~ activity may use dragline, dredging or earthmoving equipment to perform the mining operation provided the operation complies with the standards of this Section. The use of explosive devices or permanent structures or equipment used to crush or sift material shall be prohibited.

**~~b.2) Type ##3B Excavation~~**

~~Mining Excavation~~ activity, ~~primarily for commercial purposes~~, that extracts materials from the earth and may require extensive processing of the material on site. Type ~~##3B~~ ~~eExcavations~~ may use dragline, dredging, earthmoving equipment to perform the mining operation. The use of explosives and heavy industrial equipment to crush, sift and transport the material on site may be permitted subject to compliance with the standards of this Section.

**~~2c. Standards~~**

An application for a Type ~~##3~~ ~~eExcavation~~ shall comply with the following requirements: [Ord. 2008-037]

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- a-1) Operational and construction standards pursuant to Article ~~4.D.8.A~~ 4.B.10.B.7.a, Operational Standards and Requirements, and Article ~~4.D.8.B~~ 4.B.10.B.7.b, Construction Standards.
- b-2) Excavated area, Littoral zone and upland reclamation requirements pursuant to Article ~~4.D.8.C~~ 4.B.10.B.7.c, Reclamation Standards.
- e-3) Article ~~4.D.8.D~~ 4.B.10.B.7.d, Performance Guarantee Requirements.
- d-4) Article ~~4.D.8.E~~ 4.B.10.B.7.e, Maintenance and Monitoring.

**3d. Location**

A Type ~~4.3~~ 3B Excavation may be permitted in accordance with Table ~~4.A.3.A~~ 4.B.10.A, Excavation Use Matrix. Mining may be permitted with limitations in the districts identified below.

**a-1) AP 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 Article ~~4.D.5.E.8~~ 4.B.10.C.5.i, Compatibility Standards. **[Ord. 2005-041]**

**4e. Depth**

The maximum depth of a Type ~~4.3~~ 3B Excavation shall be in accordance with Article ~~4.D.5.A.2~~ 4.B.10.C.1.c, Maximum Depth.

**5f. Accessory Use**

An asphalt batch concrete plant shall be permitted as an accessory use to a Type ~~4.3B~~ 3B Excavation, subject to DRO approval and provided that:

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

**6g. Use Approval and Procedures**

A Class A conditional use approval is required for a Type ~~4.3~~ 3B Excavation, in accordance with Article 2.B.2, Conditional and Requested Uses, and this Section. A Type ~~4.3~~ 3B 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. **[Ord. 2008-037]**

**a-1) Excavation Pre-Application Checklist**

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

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

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

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

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

- (1a) An Environmental Resource Permit; or **[Ord. 2008-037]**
- (2b) Request for Additional Information demonstrating no apparent concerns will be generated from the application. **[Ord. 2008-037]**

**3c) Conditions of Approval**

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

**b-2) Water Control or Management District**

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

**e-3) Final DRO Approval**

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

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

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

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

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

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

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

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

The BCC may require, as a condition of approval, for a an executed agreement for the proposed haul permit for unpaved collector or arterial streets. If required, a haul permit application shall be submitted to and approved by the Land Development Division in accordance with Article ~~4.D.8~~ 4.B.10.B.7, Technical Standards, prior to issuance of the Notice of Intent to Construct by ERM.

~~f.6)~~ **Notice of Intent to Construct**

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

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

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

~~7h.)~~ **Annual Report**

For the purpose of Type ~~443~~ Excavation, the owner shall submit an Annual Report to ~~the~~ Monitoring ~~Section~~ on the anniversary date of the BCC approval date. The Annual Report is necessary to monitor the intent of the conditional use approval and applicable BCC conditions. In addition, the report is to ensure compliance and update the Agency requirements as listed below: [Ord. 2008-037]

~~a.1)~~ **General:**

~~4a)~~ Acres mined to date; [Ord. 2008-037]

~~2b)~~ Tonnage removed/sold including a copy of the resource extraction fee receipt to the County; [Ord. 2008-037]

~~3c)~~ Status of each phase; [Ord. 2008-037]

~~4d)~~ Updates to master /site plans; [Ord. 2008-037]

~~5e)~~ Documentation that the intended use of the material complies with County requirements, such as, but not limited to, the quarry's status with FDOT and other usages for the mined aggregate; [Ord. 2008-037]

~~6f)~~ Status of compliance with conditions contained within the approved Resolution(s); [Ord. 2008-037]

~~7g)~~ Status of compliance with all required permits including the most recent compliance inspection from subject agencies, and status of any identified notice of noncompliance/violations; [Ord. 2008-037]

~~8h)~~ Full stamped, executed or signed copies, including exhibits and plans, of required permits from all participating agencies including modifications or updates as they occur; and, [Ord. 2008-037]

~~9i)~~ Certification and documentation that all seismograph instruments have been re-calibrated during the calendar year. [Ord. 2008-037]

~~b.2)~~ **Agencies**

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

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- 4a) Archaeological:**
  - (1a) Status of found artifacts and their location(s); and, **[Ord. 2008-037]**
  - (2b) Copy of notification(s) to County and State Archaeologist and current status. **[Ord. 2008-037]**
- 2b) Engineering:**
  - (1a) Status of potential road construction requirements, signalization and ROW acquisitions. **[Ord. 2008-037]**
- 3c) Environmental:**
  - (1a) Status of Notice of Intent to Construct (NIC) conditions of approval and compliance with Administrative waivers; **[Ord. 2008-037]**
  - (2b) Status of extraction fee; and, **[Ord. 2008-037]**
  - (3e) Water quality data from designated sampling location from FDEP. **[Ord. 2008-037]**
- 4d) Health:**
  - (1a) Status of compliance for any onsite sewage treatment and disposal systems; **[Ord. 2008-037]**
  - (2b) Status of compliance for any onsite drinking water systems; and, **[Ord. 2008-037]**
  - (3e) Status of compliance with BMP's for mosquito control including the need for aerial spraying. **[Ord. 2008-037]**
- 5e) Planning:**
  - (1a) Status of possibility for the mined areas to be utilized for Water Management or ecosystem restoration purposes with a letter or any executed binding agreements from each corresponding agency discussing pertaining to the reclaimed mined areas future proposed uses. **[Ord. 2008-037]**
- 6f) Zoning:**
  - (1a) Copy of the daily blasting log; **[Ord. 2008-037]**
  - (2b) Copy of the State Fire Marshall's blast permit; and, **[Ord. 2008-037]**
  - (3e) Status of the upland reclamation requirements. **[Ord. 2008-037]**

**8j. Compatibility Standards**

A Type ~~##3~~ ~~e~~ Excavation shall be reviewed to assure the proposed excavation is compatible with surrounding land uses and complies with the applicable separation and setback standards and to ensure there are no negative impacts as defined herein. The BCC shall not approve the application if a finding is made that the use will be incompatible with surrounding land uses. For the purposes of this ~~Section requirement~~, incompatible means negative impacts caused to surrounding land uses because of proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including, but not limited to, the impacts of noise, vibration, dust, traffic, smoke, odors, toxic matter, radiation, and similar environmental conditions.

**a-1) General**

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

**4a) Location and Access**

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

**(a1) Restrictions in the RR FLU Designation**

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

**2b) Separation from Other Land Uses**

Minimum separations from protected land uses are defined in Article ~~4.D.5.E.8~~ 4.B.10.C.5.i, Compatibility Standards. Unless otherwise specified, separation shall be measured from the outermost edge of the excavated area (top of bank), equipment, stockpiles, buildings, or structures, to the closest structure of a

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protected land use. The BCC may reduce the required separation distance based on the compatibility of the use with the adjacent area, and the remoteness or proximity of adjacent incompatible uses, provided the reduction complies with the intent of the compatibility standards in Article ~~4.D.5.E.8~~ 4.B.10.C.5.i, Compatibility Standards. The BCC shall state the basis for the reduced separation and make a finding of fact that the reduction should not negatively impact adjacent uses. If the separation is reduced, the BCC may require increased setbacks, buffering and other restrictions as necessary to protect surrounding land uses.

**(a1) Residential Uses**

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

**3c) Setbacks**

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

**4d) Fence**

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

**5e) Noise**

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

**b.2) Type IIIA Excavations**

**4a) Restrictions in the RR FLU Designation**

**(a1) Lot Size**

A minimum of 40 acres.

**(b2) Minimum Surface Area**

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

**2b) General**

The following standards shall apply to a Type ~~III~~ IIIA ~~e~~Excavation:

**(a1) Minimum Separations and Setbacks**

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

**(1a) Separations from Residential Land Uses**

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

**(2b) Setbacks**

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

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

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EXHIBIT E

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

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**(b2) Stockpile Height**

Stockpile height shall be limited to 30 feet.

**(e3) Buffer**

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

**(1a) Existing Vegetative Buffer**

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

**(2b) Existing Prohibited Vegetative Buffer**

To provide an instant buffer the BCC, by condition of approval, may permit existing prohibited species to be maintained within the setbacks for a Type ~~3~~A ~~e~~Excavation until completion of the excavation activity. In such cases the prohibited species shall be removed prior to DRO approval of the as-built drawings for the final phase of excavation, provided the last phase is a minimum of 25 acres. A landscape buffer as required by Article 7.F, Perimeter Buffer Landscape Requirements, shall be installed in conjunction with subsequent development.

**(3c) No Existing Vegetative Buffer**

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

- (1-) all streets;
- (2-) all residential zoning districts;
- (3-) lots supporting existing or proposed residential uses in the AR zoning district. Unless otherwise determined by the BCC, a buffer shall not be required adjacent to land in agricultural production in the AP, or SA zoning districts nor in the AR zoning district if the land is used solely for bona fide agricultural purposes; and
- (4-) commercial zoning districts.

**~~e.3~~ Type ~~3~~B Excavation**

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

**(a1) Lot Size**

A minimum of 100 acres.

**(b2) Maximum Surface Area**

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

**2b) General**

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

**(a1) Minimum Separations and Setbacks**

In addition to the separation requirements in Article ~~4.D.8.B~~ ~~4.B.10.B.7.b~~, Construction Standards, a Type ~~3~~B Excavation, except those that lie in the area defined as the WCAA, shall comply with the separation and setback regulations below. Excavation projects in the WCAA shall be evaluated on a case by case basis in accordance with the compatibility criteria Article ~~4.D.5.E.8~~ ~~4.B.10.C.5.i~~, Compatibility Standards, and shall have separation requirements set by the BCC.

**(1a) Separation from Residential Uses**

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

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EXHIBIT E

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

- 1 **(2b) Setbacks**
- 2 Minimum setbacks shall be provided based on separations from uses as
- 3 indicated below. [Ord. 2005-002]
- 4 **(3c) Separation from Commercial and Industrial Uses**
- 5 Commercial: 1/2 mile
- 6 Industrial: 1/8 mile
- 7 [Ord. 2005-002]
- 8

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

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

- 9 **(b2) Mining Impact Study**
- 10 A Mining Impact Study shall be submitted for a Type ~~III~~ B ~~e~~ Excavation in the
- 11 WCAA and for projects which the applicant requests a reduction in the
- 12 required separations. The study shall detail all methods and procedures for
- 13 material extraction, processing, storage and hauling operations. At a
- 14 minimum the study shall include the time of day blasting will occur, the
- 15 maximum number of holes to be shot each occurrence, including the type of
- 16 explosive agent, maximum pounds per delay, method of packing and type of
- 17 initiation device to be used for each hole. The study shall include a blasting
- 18 schedule and establish noise and vibration standards complying with Article
- 19 4.D.5.E.8 4.B.10.C.5.i, Compatibility Standards. The study shall also
- 20 demonstrate how these operations will impact surrounding land uses.
- 21 **(4a)** Prior to certification of an application for inclusion on a public hearing
- 22 agenda, the DRO may retain a technical consultant to advise the PBC of
- 23 the adequacy of the standards established in conjunction with the Mining
- 24 Impact Study. The cost of PBCs consultant shall be borne by the
- 25 applicant.
- 26 **e3) Noise and Vibration Monitoring Report**
- 27 The applicant shall monitor all blasting and other mining activities and record
- 28 resultant noise and vibrations. PZB may, at any time, require the property
- 29 owner to submit monthly monitoring reports, indicating the number, time,
- 30 peak over pressure (noise) and vibration caused by each activity. If
- 31 requested, the property owner shall provide the noise and vibration
- 32 monitoring report within two working days from the date of the request.
- 33 **d4) Buffer**
- 34 A buffer shall be installed along all property lines as specified below. The
- 35 buffer shall be planted and maintained in accordance with the standards of
- 36 Article 7.F, Perimeter Buffer Landscape Requirements.
- 37 **(1a) Existing Native Vegetative Buffer**
- 38 Existing native vegetation within 100 feet of the property line shall be
- 39 preserved along the entire perimeter of the site, except for an approved
- 40 access area.
- 41 **(2b) Existing Prohibited Vegetative Buffer**
- 42 To provide an instant buffer along the entire perimeter of the site, the
- 43 BCC, by condition of approval, may permit existing prohibited species to
- 44 be maintained in the setbacks until completion of the excavation activity.
- 45 In such cases, the prohibited species shall be removed prior to DRO
- 46 approval of the as-built drawings for the final phase of excavation,
- 47 provided the last phase is a minimum of 25 acres. A landscape buffer as
- 48 required by Article 7.F, Perimeter Buffer Landscape Requirements, shall
- 49 be installed in conjunction with subsequent development.
- 50 **(3c) Type 3 Incompatibility Buffer**
- 51 Sites within a one-quarter mile of a public or private streets, which does
- 52 not support an existing opaque native or non-native, non-invasive
- 53 vegetative buffer shall install a Type 3 incompatibility buffer. The buffer
- 54 shall be supplemented with a planted berm, a solid landscape barrier, or
- 55 combination thereof.
- 56 **(4d) No Existing Vegetative Buffer**
- 57 If a buffer does not exist along the areas defined below, then an opaque
- 58 native buffer shall be installed complying with the standards of a Type 3
- 59 incompatibility buffer. The buffer shall be supplemented with a berm, a
- 60 solid landscape barrier, or combination thereof to reach a height of eight

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EXHIBIT E

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

feet in two years from the date of installation. The BCC may require the buffer to be planted to simulate natural conditions. This buffer shall be installed adjacent to: [Ord. 2008-037]

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

**3c) Hours of Operation**

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

**4d) Notice of Intent to Construct**

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

**9j. 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 \$.05 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 \$.05 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 Section 373.41492(5) as amended, of the Florida Statutes. 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. [Ord. 2008-037]



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

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

CHAPTER A ARCHAEOLOGICAL RESOURCES PROTECTION

Section 1 General

B. Applicability

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

Section 2 Development Subject to Archaeological Review

A. Development Subject to Archaeological Review

Development shall be subject to this Article as follows:

1. Parcels on Identified Sites

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

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EXHIBIT E

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

Section 3 Procedures

C. Certificate to Dig

1. Application

Owner of parcels required by Art. 9.A.1, General, and Art. 9.A.2, Development Subject to Archaeological Review, Parcels on the Map of Known Archaeological Sites, Archaeological Conservation Areas and proposals for Type ~~##3~~ Excavation, and Previously Unknown Archaeological Sites discovered during development, to make application for a Certificate to Dig to the PZB for review shall make such application prior to the issuance of a development order. The application for the Certificate to Dig shall be made on a form available from the PZB. Only one Certificate to Dig shall be required to develop a site unless additional resources not addressed in the initial Certificate to Dig are found during site development. The department shall determine whether the application is a standard or special Certificate to Dig. A special Certificate to Dig will be required for any application that will potentially alter or destroy more than ten percent of any known or previously recorded archeological site. All special Certificates to Dig will be forwarded by the department to the Palm Beach County Historic Resources Review Board (HRRB) for review. All standard Certificates to Dig will be reviewed by the department staff and the County Archaeologist. [Ord. 2005 – 002] [2008-037]

....

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

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

....

CHAPTER C GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD

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

....

CHAPTER E REMEDIES

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

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

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EXHIBIT E

EXCAVATION USES  
SUMMARY OF AMENDMENTS  
(Updated 11/17/15)

1 Part 11. Art. 11, Subdivision, Platting and Required Improvements, (page 23 and 42 of 46), is  
2 hereby amended as follows:  
3

Reason for amendments: <u>Zoning</u> Update Excavation Uses reference to reflect updated article numbers resulting from the reorganized excavation language as part of the Use Regulations Project.
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4 ....

5 CHAPTER B SUBDIVISION REQUIREMENTS

6 Section 6 Supplemental Procedures

7 A. Construction and Landscaping in Lake Maintenance Easements and Water Management  
8 Tracts

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

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

13 ....

14 CHAPTER E REQUIRED IMPROVEMENTS

15 Section 4 Stormwater Management

16 F. Secondary Stormwater System Design and Performance

17 ....

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

21 ....

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