

RESOLUTION AMENDING RESOLUTION NO. 85-161, AS AMENDED BY RESOLUTION NO. 87-253; RE-ESTABLISHING THE THREE CLASSES OF MINING PERMITS; RE-ESTABLISHING AND AMENDING THE CRITERIA APPLICABLE TO SUCH CLASSES; AND RE-ESTABLISHING PROCEDURES APPLICABLE TO SUCH CLASSES.

WHEREAS, Board of County Commissioners of Pasco County, Florida, has adopted the Land Development Code by Ordinance No. 89-21, as subsequently amended to monitor and regulate development; and,

WHEREAS, the Pasco County Land Development Code which contains mining rules was adopted to protect the health, safety, and general welfare of the citizens of Pasco County; and,

WHEREAS, Section 609.3, Implementation, of said Code provides that the Board of County Commissioners may adopt, by Resolution, such rules and regulations as it deems necessary and appropriate for the implementation of the Code; and,

WHEREAS, Section 609.4, Operating Permits Required, of the Code provides that "the Board may by regulation, provide for one (1) or more classes of operating permits and specify terms and conditions applicable to each class which may vary from class to class, but shall be uniform within each class"; and,

WHEREAS, there is no intent in the Pasco County Land Development Code to hinder the creation of farm drainage retention ponds, cattle ponds, and other small ponds; and,

WHEREAS, the provisions governing the classes of mines as set forth in Resolution Nos. 85-161 and 87-253 do not fully carry out the intent of the Board of County Commissioners.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pasco County, duly assembled in regular session, that in accordance with Sections 609.3 and 609.4 of the Land Development Code, three classes of mining operation permits as previously established by resolution are re-established and amended as follows:

SECTION 1. CLASS I MINING OPERATION PERMIT

A. A Class I Mining Operation Permit shall be obtained for development activity with the exception of lake cleaning or improvements to existing lakes where excavation is less than 30,000 cubic yards, which involves the creation of two (2) or more surface acres of excavated land or where excavation in excess of 50,000 cubic yards is proposed to be removed from an approved development site within an agricultural, commercial, or industrial zoning district using publicly dedicated rights-of-ways, roadways, or easements. A Class I Mining Operation Permit must also be obtained for any excavation activity, with the exception of lake cleaning or improvement to existing lakes, which involves the removal of minerals or solid mineral matter for sale or commercial use. For

purposes of this Resolution, for sale or commercial use shall be defined as any activity carried out for pecuniary gain.

B. An applicant proposing a Class I mining operation shall fulfill all requirements as specified in the Pasco County Land Development Code and shall otherwise be subject to all requirements of that Code.

SECTION 2. CLASS II MINING OPERATION PERMIT

A. A Class II Mining Operation Permit shall be obtained for the cleaning of and/or any improvements to an existing lake whose existing surface area ranges between two (2) acres and one-quarter acre in size, or any mining involving an area of agricultural lands ranging in size between two (2) acres and one-quarter acre of mined surface area where such mining is conducted primarily for bona fide agricultural purposes and less than 50,000 cubic yards is excavated. For purposes of this section, lake cleaning shall be defined as the removal of organic sediment deposits from the bottom of an existing lake resulting in not more than a twenty-five (25) percent increase in lake depth provided that such removal does not further result in expansion of the existing surface area of such lake. Improvements to existing lakes shall be defined as any improvement of an existing lake not involving more than a twenty-five (25) percent expansion of the existing surface area of such lake. For purposes of a Class II Mine, agricultural lands shall be defined as lands either devoted to bona fide agricultural use or currently classified pursuant to Section 193.46, Florida Statutes, as "Agricultural".

B. To the extent consistent with the limitations set forth above, a Class II Mine:

1. Must be operated primarily for lake cleaning and/or improvement or for bona fide agricultural purposes including the creation of cattle, retention, or other small ponds.
2. Must create a minimum water level of eight (8) feet in depth.
3. Must not exceed fifteen (15) feet in depth as measured from the original ground level.
4. Must have side and back slopes constructed to a 3:1 (three-foot horizontal to one-foot vertical) or flatter grade.
5. Must be set back a minimum of 100 feet from the adjoining property line.
6. Must not significantly alter drainage patterns across property lines.
7. Must be completed within twelve (12) months from the date of the issuance of a permit.

C. Any person proposing to establish a Class II mine must submit an application to the County showing the location, size, depth, and existing, and proposed finished grade, and construction cross-section, showing side and back slope of the final excavation. In addition, the applicant shall be required to provide a general topographic description of the area immediately surrounding the proposed Class II Mine and a statement of intended use.

D. The provisions of the Land Development Code, with regard to storage and disposal of extracted materials shall apply to Class II mines. However, the following requirements of the Code are waived for applicants for Class II Permits:

1. The posting of a Performance Bond.
2. Public notice and public hearing prior to the issuance of a permit for a Class II Mine.

E. Class II mining operations are required to comply with the following:

1. All extraction of materials must be completed within twelve (12) months from the date of permit issue.
2. Reclamation or stabilization of the mined area must begin within twelve (12) months of the issuance of the permit.
3. When extracted materials are used for the landowner's ongoing agricultural operations (materials for building terraces, diversions, etc.), the time limitations imposed by this limitation will be waived provided, however, all other restrictions imposed shall apply.
4. Mined materials up to 50,000 cubic yards may be removed from the property or lawfully disposed of at other sites if approved by Board of County Commissioners, or may be spread over the owner's property. Upon approval by the Board of County Commissioners, mined material may be sold if it cannot be lawfully disposed of or spread on the property. Materials may also be used in lieu of payment or partial compensation in the construction of ponds.
5. Class II permits are not required for excavations for lagoons or other waste facilities which will require:
 - a. A-C Zoning; or
 - b. An approved plan meeting or exceeding Soil Conservation Services standards.
6. A permit shall be required and approved by the Development Review Committee where material is not removed from the site. Approval by the Board of County Commissioners is required where material is removed from the site.
7. The Board of County Commissioners shall have the sole authority to extend, modify, amend, revoke, or suspend any Class II Mining Permit. The Board of

County Commissioners may consider a proposed modification or amendment to a Class II Mining Permit without a public hearing in the event the proposed amendment or modification is acceptable to both the permittee and the County's Development Review Committee.

8. A Class II Mining Permit may be suspended or revoked at any time where a violation of the standards set forth in this section has occurred.

9. The Board may require any reasonable activity necessary to assure that the standards set forth in this Resolution are complied with including a requirement that a mine be reclaimed by means of filling, sloping, or otherwise.

10. The standards set forth in the Pasco County Land Development Code shall guide the reclamation or final development of any cattle pond, retention pond, or other pond created under a Class II Mining Permit.

11. Class II mining operations resulting in the creation of ponds which will hold back more than four (4) feet of water against a dike must comply with Soil Conservation's service standards for embankment ponds.

12. A fee, as established by resolution, shall be required by the Board for the review of Class II mining applications.

SECTION 3. CLASS III PERMIT

A. Any excavation creating an excavated surface area of one-quarter acre or less in size shall be classified as a Class III mining operation, provided however, such mining operation shall not include lagoons or similar waste facilities.

B. To the extent consistent with the limitations set forth above, a Class III Mine:

1. Must not exceed eight (8) feet in depth as measured from the original ground level.

2. Must have side and back slopes constructed to a 3:1 (three foot horizontal to one foot vertical) or flatter grade.

3. Must be set back a minimum of fifty (50) feet from the adjoining property line.

4. Must not significantly alter drainage patterns across property lines.

5. Must be completed within eight (8) months from the date of the issuance of a permit.

C. Any person proposing to establish a Class III mine must submit an application to the County showing the location, size, depth, and existing, and proposed finished grade, and construction cross-section, showing side and back slope of the final excavation. In addition, the applicant shall be required to provide a general topographic

description of the area immediately surrounding the proposed Class III Mine and a statement of intended use.

D. The provisions of the Land Development Code, with regard to storage and disposal of extracted materials shall apply to Class III mines. However, the following requirements of the Code are waived for applicants for Class III Permits:

1. The posting of a Performance Bond.
2. Public notice and public hearing prior to the issuance of a permit for a Class III Mine.

E. Class III mining operations are required to comply with the following:

1. All extraction of materials must be completed within eight (8) months from the date of permit issue.

2. Reclamation or stabilization of the mined area must begin within eight (8) months of the issuance of the permit.

3. When extracted materials are used for the landowner's ongoing agricultural operations (materials for building terraces, diversions, etc.), the time limitations imposed by this limitation will be waived, provided however, all other restrictions imposed shall apply.

4. Mined materials up to 50,000 cubic yards may be removed from the property or lawfully disposed of at other sites if approved by Board of County Commissioners, or may be spread over the owner's property. Upon approval by the Board of County Commissioners, mined material may be sold if it cannot be lawfully disposed of or spread on the property. Materials may also be used in lieu of payment or partial compensation in the construction of ponds.

5. A permit shall be required and approved by the Development Review Committee where material is not removed from the site. Approval by the Board of County Commissioners is required where material is removed from the site.

6. The Board of County Commissioners shall have the sole authority to extend, modify, amend, revoke, or suspend any Class III Mining permit. The Board of County Commissioners may consider a proposed modification or amendment to a Class III Mining Permit without a public hearing in the event the proposed amendment or modification is acceptable to both the permittee and the County's Development Review Committee.

7. A Class III Mining Permit may be suspended or revoked at any time where a violation of the standards set forth in this section has occurred.

8. The Board may require any reasonable activity necessary to assure that the standards set forth in this Resolution are complied with including a requirement that a mine be reclaimed by means of filling, sloping, or otherwise.

9. The standards set forth in the Pasco County Land Development Code shall guide the reclamation or final development of any cattle pond, retention pond, or other pond created under a Class III Mining Permit.

10. Class III mining operations resulting in the creation of ponds which will hold back more than four (4) feet of water against a dike must comply with Soil Conservation's service standards for embankment ponds.

11. A fee, as established by resolution, shall be required by the Board for the review of Class III mining applications.

BE IT FURTHER RESOLVED, that the depth requirements established above may be reasonably modified by the Board upon a showing of unusual or unique circumstances.

BE IT FURTHER RESOLVED, that any development activity in which excess excavation is moved from phase to phase within or between approved developments without using publicly dedicated right-of-way, roadways, or easements shall not be considered mining activity and shall only require approved development permits in accordance with the Land Development Code.

BE IT FURTHER RESOLVED, that any on-site filling or excavation in connection with the construction, maintenance, or repair of a public facility, or public improvement, or public roadway shall not be considered mining activity and shall only require approved development permits.

BE IT FURTHER RESOLVED, the the County Administrator or his designee is hereby authorized to collect the fees as established by resolution and shall be responsible for overseeing and monitoring the provisions of the Pasco County Land Development Code pursuant to the terms of the Code.

BE IT FURTHER RESOLVED, that Resolution Nos. 85-161 and 87-253 and any resolutions in conflict with this Resolution are hereby repealed and superseded.

DONE AND RESOLVED this 27th day of July, 19 83.

(SEAL)
ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

BY: Jed Pittman
JED PITTMAN, CLERK

BY: Ann Hildebrand
ANN HILDEBRAND, CHAIRMAN

By: Donald Schmidt

APPROVED AS TO LEGAL FORM AND CONTENT
Office of the County Attorney

BY: [Signature]
ATTORNEY